

This Instrument prepared  
by and Return to:  
Holmes, Rich, Sigler, P.C.  
218 West Main Street  
Jackson, Tennessee 38301

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

WATERSTONE

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THIS DECLARATION is made, published and declared this the 7, day of October, 2008, by Jerry E. Winberry and wife, Deborah Winberry ("Declarant" or "Developer") and any and all persons, firms or corporations hereinafter acquiring any of the within described property:

WHBREAS, the Declarant is the fee simple owner of a certain tract of real property in Madison County, Tennessee, which property is more particularly described in Exhibit "A" attached hereto (the "Property"); and

WHEREAS, the Developer has caused to be prepared a plan for the development for the Property, to be known as "Waterstone", a residential development, together with certain common areas for the use, benefit and enjoyment of the owners of the units in common with each other; and

WHEREAS, the Developer has caused a plat of the Property to be filed in simultaneously with these covenants, conditions and restrictions in the Register's Office of Madison County, Tennessee ("Plat") as recorded in Plat Book 10, page 624 and;

WHEREAS, it is to the benefit, interest and advantage of the Declarant, the Lot Owners, and of each and every person or other entity hereafter acquiring any interest in the Property that certain covenants, 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 land;

NOW, THEREFOR, in consideration of the premises, the Declarant does hereby publish and declare that all or any portion of the Property described in Exhibit "A" is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, use, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations (and subject to all easements, conditions, restrictions, etc., as set out in the Plat), all of which are declared and agreed to be in furtherance of a plan for the development and improvement of the said Property, and the said covenants, conditions, restrictions, uses, limitations and obligations shall run with the land and shall be a burden and a benefit to the Declarant, its successors and assigns, and any person or legal entity acquiring or owning any interest in any portion of the said Property or any improvements thereon, their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I.  
DEFINITIONS

The following words when used in this Declaration shall have the following meaning:

Section 1. "Association" shall mean and refer to Waterstone Property Owner's Association, Inc., a nonprofit, nonstock corporation incorporated under the laws of the State of Tennessee, its successors and assigns.

Section 2. "Declarant" shall mean Jerry E. Winberry and wife, Deborah Winberry its successors and assigns. "Declarant" shall be synonymous with "Developer" for purposes of this Declaration.

Section 3. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, and any supplementary declaration filed hereto, as this Declaration may, from time to time, be amended in accordance with its terms.

Section 4. "Lot" shall mean and refer to the plots of land designated as lots or units on the Plat of record and all subsequent Plats for additional Phases of Waterstone Development. For all purposes hereunder, it shall be understood and agreed that Declarant shall be the Owner of all of said Lots, save and except only those particular Lots which Declarant conveys in fee simple title by recordable deed from and after the date hereof. Ownership of a Lot hereunder shall include an undivided pro rata interest in the Common Area owned by the Association. Lot and Unit may be used interchangeably.

Section 5. "Member" shall mean and refer to every Person who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, provided, however, that the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 7. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 8. "Property" or "Properties" shall mean that real property described in Exhibit "A" attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 9. "Common Area" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Members of the Association. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is to include the private streets within Waterstone, the private utilities (both sanitary and surface water, if any); storm water detention, pond; perimeter fences, subdivision monuments and gates.

Section 10. "Improvements" shall mean the structures, walls, pavement, planting and other additions built or placed on the Lots. It is intended that the Improvements reasonably meant for the Owner of a particular Lot will lie entirely within said Lot. In the event that, by reason of construction, settlement, reconstruction or shifting of the Improvements, any minor part of the Improvements reasonably intended for a particular Lot lie outside that Lot, an easement of use shall apply thereto in favor of the Lot to be benefitted.

## ARTICLE II. PROPERTY

Section 1. Property Subject to Declaration. That certain real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration located in Madison County, Tennessee, and which is more particularly described in Exhibit "A" attached hereto and made a part hereof.

Section 2. Road, Sewers, and Drainage. The road, sewers and drainage within Waterstone are, and shall remain, private roads, sewers and drainage, and have not been dedicated to the City of Jackson, or any governmental body with the exception of those sewers and drainage easements already existing or required to be dedicated to the City of Jackson, or Madison County. By remaining private, the responsibility for payment of maintenance and repair expenses for said road, sewers and water drainage shall remain the responsibility of the individual Lot Owners, and be paid for by assessments levied by the Association as provided herein. Notwithstanding anything herein to the contrary, this paragraph shall not apply to those utility and drainage easements designated as "public" easements and shown on the recorded plat.

ARTICLE III.  
THE ASSOCIATION

Section 1. Members. Every Person, as defined, who is a record Owner of a fee or undivided fee interest of any Lot within the Property shall be a Member of the Association, as defined, 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 Waterstone. Ownership of such Lot shall be the sole qualification for membership.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of a Lot, each Owner of a Lot being entitled to one (1) vote for each Lot owned, except the Developer, which shall be entitled to three (3) votes for each Lot owned by it. After the expiration of five (5) years from the date of the conveyance of the first Lot from Developer to the purchaser, Developer shall only be entitled to one (1) vote for each Lot still owned by it.

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 vote on each question. The vote of the Members representing a fifty-one percent (51%) majority of the total votes cast, in person or by proxy (provided a quorum exists), shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of statute or of the corporate 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 person may be exercised by any of them present at any such meeting unless any objection or protest by any 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 such membership shall be cast on any particular question, then such vote shall not be counted for purpose of deciding that question. No Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

Section 5. Proxies. A Member may appoint any other Member or the Developer or any other person permitted by law or by the Bylaws as his proxy. In no case may any Member (except the Developer) cast more than one vote by proxy in addition to his own vote. Any proxy must be in writing and must comply with all requirements imposed by law or by the Association's Bylaws.

Section 6. Quorum. The presence, either in person or by proxy, of Members representing at least fifty-one percent (51%) of the total votes entitled to be cast shall constitute a quorum for, the transaction of business at all meetings of members. If the number of Members at a meeting drops below the quorum and the question of a lack of a quorum is raised, no business may thereafter be transacted.

ARTICLE IV.  
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every assessed Lot;

The common areas and the Association shall be subject to the following provisions:

(a) The right of the Association to suspend any enjoyment rights of any Member for any periods during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(b) The right of the Association to provide for and establish easements and rights-of-ways on all street, and to regulate parking, motorized and non-motorized vehicular traffic, and to maintain the private streets and utilities within Waterstone;

(c) The right of the Association, in accordance with its Charter and Bylaws, to borrow money for the purpose of improving the streets and Common Area which the Association is to maintain;

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, transfer of mortgage shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes hereof has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance of such dedication or transfer.

(e) No conveyance or encumbrance of the Common Area shall prevent any Lot Owner from using the Common Area for ingress and egress to his Lot.

Section 2. Additional Building. No additional buildings for permanent occupancy or any other use shall be constructed on the property without the consent of the Developer. This shall not prohibit the easements described above.

ARTICLE V.  
MAINTENANCE AND REPAIR

Section 1. Association Responsibilities. The Association with the approval of the Developer shall provide and pay for all maintenance and expenses for the Common Area including but not limited to the private streets and storm water detention pond; the perimeter fence; the subdivision monuments, gates, and the private utilities (both sanitary and surface water, if any); and the landscaping of the Common Area. The Association shall also contract for the maintenance of the individual yards, including front, back and side yards, on each Lot in Waterstone. The real property taxes on the Common Area, if any, shall also be paid for by the Association.

Section 2. Individual Lot Owners.

(a) Interior Maintenance. Each Owner of a Lot shall be responsible for all interior maintenance, painting, repairs and upkeep on his Lot and the improvements thereon.

(b) Exterior maintenance. In order to retain the appearance of the development, no exterior maintenance, repairs or replacements which substantially alter the exterior appearance of a Lot shall be commenced for the improvement of an individual Lot unless permission is obtained from the Developer or Architectural Control Committee, as hereinafter defined. However, no Owner shall change the color outside of the house such as the trim, roof, type of roof, or alter the outside structure without permission of the Developer or Architectural Control Committee. Each Owner shall be responsible for the exterior maintenance of his Lot included by not limited to, the driveway, the mailbox, roof, exterior walls, windows, trim, etc.

(c) Unit Owner shall be responsible for repairing any damage to the common area including, but not limited to, structures, fences, gates, roads, pool, which are caused by lot owner of lot owner's guest or invitee's negligence or willful misconduct.

In the event an Owner of any Lot in the Property shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and

employees, to enter upon said Lot and to repair, maintain, or restore the Lot and the exterior of the building and any 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.

ARTICLE VI.  
ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, including road and sewer maintenance; and (3) emergency assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual, special and emergency assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

Section 2. Annual Assessments and Carrying Charges of the Association. Each Owner agrees to pay two hundred and fifty dollars (\$250.00) at time of closing to be placed in a Reserve account for reserves for maintenance for the Common Area in addition to any annual fees. Each Member of the Association shall pay to the Association an annual sum (hereinafter sometimes referred to as "assessments" or "carrying charges") equal to the Member's proportionate share of the sum required by the Association, as estimated by its Board of Directors, to meet its annual expenses, including, but in no way limited to, the following:

- (a) The cost of all operation expenses of the Association and services furnished, including charges by the Association for its facilities and payment to Developer or Assigns for a maintenance fee, if any; and
- (b) The amount of all taxes and assessment levied against the Association or upon any property which it may own or which it is otherwise required to pay, if any; and
- (c) The cost of extended liability insurance and the cost of such other insurance as the Association may effect; and
- (d) The cost of funding all reserves established by the Association including, when appropriate, a general operation reserve and/or reserve for replacements; and
- (e) The estimated cost of repairs, maintenance and replacements of the private streets, utilities, gates, entrance, and accessory structures, subdivision monuments, fences, and landscaping in the Common Areas and any other item

the Association may be responsible for; and

(f) The cost of yard maintenance for each Lot and the common areas.

(g) Cost of common area fence maintenance.

Except as provided in Section 2 of this Article VI, the Board of Directors of the Association shall determine the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period, but may do so at more frequent intervals should circumstances so require as provided in the Bylaws. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a letter signed by an officer of the Association setting forth whether the assessment on a specific Lot has been paid. Annual assessments may be paid quarterly if approved by a majority of the Board Members and the date of any such quarterly payment would be established by the Board.

Section 3. Special Assessments. In addition to the regular assessments authorized by this Article, the Association may 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 a described capital improvement for which the Association is specifically responsible or for such other purposes as the Board of Directors may consider necessary, provided that such assessment shall have the assent of the Members representing two-thirds (2/3) of the total number of votes eligible to be cast. A meeting of the appropriate Members shall be sent to all Members at least ten (10) days but not more than thirty (30) days in advance of such meeting, which notice shall set forth the purpose of the meeting.

Section 4. Emergency Assessments. In the event of any emergency situation, condition, or occurrence affecting the life, health, safety or welfare of Members or Property of Members, the Board of Directors, acting pursuant to this section, may declare an emergency assessment in such amount payable at such time as the Board of Directors, in its sole discretion, shall deem necessary. Such emergency assessment, except for the amount and time of payment, shall be governed by all other provisions of this Declaration. Such assessment shall be borne pro rata by all Members of the Association. The Board of Directors shall be fully protected and not liable for any mistake in judgement hereunder if the emergency assessment is made in good faith.

Section 5. Non-Payment of Assessment. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the Lot or Lots belonging to the Member against whom such assessment is levied and shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. To evidence the lien of any unpaid and delinquent assessments, the Board of Directors shall prepare a written notice setting out the amount of the unpaid indebtedness, the name of the Owner of the Lot, and description of the Lot. Said notice shall be signed by a member



of the Board and recorded in the Madison County Register's Office.

The personal obligation of the Member to pay such assessment shall, however, remain his personal obligation for the statutory period, and a sued to recover a money judgement for non-payment of any assessment levied pursuant to this Declaration or the Bylaws, or of any installment thereof, may be maintained without foreclosing or waiving the lien created herein.

Any assessment levied pursuant to this Declaration or any installment thereof, which is not paid within ten (10) days after it is due, may, upon resolution of the Board of Directors, bear interest at a rate to exceed the highest rate allowed under the laws of the State of Tennessee, and may, by resolution of the Board of Directors, subject the Member obligated to pay the same to the payment of such penalty or "late charge" as the said Board may fix. The Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the Lot or Lots subject to prior mortgages or deeds of trust upon the Lot or Lots, then belonging to said Member; in either of which events, the Association may collect from the said Member interest, costs and reasonable attorney's fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

For the purpose of enforcing the lien of any unpaid and delinquent assessment, each Lot Owner grants the Board of Directors of the Association irrevocably the power to sell his Lot at public outcry to the highest and best bidder for cash. The Board of Directors is authorized to make such a public sale if and only if such sale is made subordinate to any prior recorded mortgage or deed of trust upon the Lot. The Association is hereby authorized to take any and all courses of action available to them for collection of the assessment which the laws of the State of Tennessee allow. Any such sale shall be made after first advertising the sale of said property for twenty-one (21) days by three (3) weekly publications in some newspaper in the County of Madison, State of Tennessee, giving notice of the time and place of such sale and by written notice of the time and place of such sale to the Owner of the Lot at his last known address. Any sale of a Lot to enforce a lien for delinquent and unpaid assessments shall be free from equity of redemption, including the statutory right of redemption, homestead, and dower and all other exemptions, all of which are expressly waived by the Lot Owners; and any such sale and the lien enforced thereby shall take precedence over and have priority over any and all other liens of every nature against the Lot, except real estate and ad valorem taxes assessed against the Lot and prior recorded mortgages or deeds of trust. The proceeds of any such sale, whether under the power of sale or by foreclosure suit, shall be applied first to the payment of expenses of protecting the Property and the expenses of litigation, attorney's fees, and sales commission; and second, to the payment of real estate and ad valorem taxes assessed against the Lot and any prior recorded mortgages or deeds of trust (unless sold subject to said mortgage or deed of trust); and third, to the payment of all amounts due the Association under the terms of the Declaration and Bylaws; and the balance, if any, to the Lot Owner whose Lot is sold, and his assigns. Upon any default in the payment of any assessment, the Board of Directors shall have the right to all rents, issues, and profits from the Lot in default and shall have the right to secure the payment through notice to those in possession of the Lot or by entry into possession in the same manner as a mortgagee

entering into possession following default. The Association may enforce its lien by whatever means available, including the power of sale granted herein or filing suit for foreclosure in the appropriate court.

All rights, remedies, and privileges granted to the Board of Directors or a Lot Owner, pursuant to any terms, provisions and covenants or conditions of the Declaration and Bylaws shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies, or privileges as may be granted to such party by the Declaration and Bylaws or at law or in equity.

The Association may notify the holder of the first mortgage on any Lot for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of sixty (60) days and in any other case where the Owner of such Lot is in default with respect to the performance of any other obligation hereunder for a period in excess of ninety (90) days.

Section 6. Acceleration of Installments. Upon default in the payment of any one or more installments of any assessment levied pursuant to this Declaration, or any other installment thereof, the entire balance of said assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full.

Section 7. Priority of Lien. The lien established by this Article shall have preference over any other assessments, liens, judgements or charges of whatever nature, except as follows:

- (a) General and special assessments for real estate taxes on a Lot; and
- (b) The liens of any deeds of trust, mortgage instruments or encumbrances duly recorded on the Lot prior to the assessment of the lien thereon or duly recorded on said Lot after receipt of a written statement from the Board of Directors reflecting that payments on said liens were current as of the date of recordation of said deed of trust, mortgage instrument or encumbrance.

Section 8. Subordination and Mortgage Protection. NOTWITHSTANDING any other provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration upon any Lot shall be subordinate to and shall in no way affect the rights of the holder of any indebtedness secured by any recorded first mortgage (meaning a mortgage with priority over other mortgages) upon such interest made in good faith and for value received, provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or proceeding in lieu of foreclosure. Any such delinquent assessments which are extinguished pursuant to the foregoing provisions may be reallocated and assessed to all Owners as a common expense, including the purchaser at foreclosure. Such sale or transfer shall not relieve the purchaser at such sale of the Lot from liability for any assessment thereafter

becoming due, nor from the lien of any such subsequent assessment which said lien, if any, claimed shall have the same effect and be enforced in the same manner as provided herein.

No amendment to this Section shall affect the rights of the holder of any such mortgage (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof shall join in the execution of such amendment.

Section 9. Additional Default. Any recorded first mortgage secured by a Lot in Waterstone Development may provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby), but the failure to include such a priority thereof, and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 8 of this Article shall not be altered, modified, or diminished by reason of such failure.

Section 10. Uniform Value of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis except as to the Developer for lots and units which are not sold or occupied.

Developer shall pay (1/4) one-fourth of any annual or special assessment for maintenance of common areas until the Lot or Unit is either sold or occupied after which time Developer or Lot Owner will pay one hundred (100%) of any annual or special assessment.

Section 11. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots upon written notification by Declarant or its agent. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

Section 12. Fee for Garbage Pick-up. The annual assessment does not include the fee for garbage pick-up. The Association may elect to contract with a private company or to the City of Jackson for garbage pick-up, the fee for which will be separately assessed.

## ARTICLE VII. ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. An "Architectural Control Committee" is hereby established. The initial committee shall consist of Developer until such time as one hundred percent (100%) of the Lots in the Development are sold, after one hundred percent (100%) of the Lots are sold the Board of Directors shall elect three (3) individual members of the Association to the Committee.

These three individuals shall serve for a period of one (1) year, or until they resign from the Committee by written notice to the Board of Directors of the Association. Upon the expiration of their terms, or the earlier resignation of the appointees, the Board of Directors of the Association shall then appoint their successor. The affirmative vote of a majority of the membership of the Architectural Control Committee 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.

**Section 2. Approvals Necessary. Rules of Committee and Remedies for Violation.**

With the exception of Developer, 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 Quail Ridge, nor shall any existing structure, fence or barrier upon any Lots be altered in any way which substantially 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 Architectural Control Committee; 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 Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be required by the Architectural Control Committee.

The Architectural Control Committee 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 Architectural Control Committee at any time and no inclusion in or omission from or amendment of any such rule or statement shall be deemed to bind the Architectural Control Committee to approve or disapprove any feature or matter subject to approval or to waive the exercise of the Architectural Control Committee's discretion as to any such matter, but no change of policy shall affect the finality of any lot of any plans or specifications previously submitted to and approved by the Architectural Control Committee but such approval shall not be deemed a waiver by the Architectural Control Committee in its discretion to disapprove such plans or specifications or any feature 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 and 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 question.

In the event the Architectural Control Committee 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 Architectural Control Committee 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 Architectural Control Committee any such structure, fence or barrier so altered, erected, placed or maintain upon any Lot in violation hereof shall be removed or raftered, and such use shall be terminated so as to extinguish such violation.

If fifteen (15) 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 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 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 Office of the Register of Madison County, Tennessee.

Upon completion of the construction or alteration of any structures in accordance with the plans and specifications approved by the Architectural Control Committee, the Architectural Control Committees shall, upon written request of the Owner thereof, issue a letter of compliance in form suitable for recordation, identifying such structure and the Lot on which such structure is placed and stating that the plans and specifications, location of such structure and the use or uses to be conducted thereon have been approved and that such structures complies therewith. Preparation and recording of such letter shall be at the expense of the Owner or Owners of such Lot. Any letter of compliance issued in accordance with the provisions of this paragraph shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value or as to any title insurer, such letter shall be conclusive evidence that all structures and the use or uses described therein comply with all the requirements of these restrictions and all other requirements as to which the Architectural Control Committee exercises any discretionary or interpretive powers.

The Architectural Control Committee 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 Developer or of the Architectural Control Committee may, at reasonable times, enter upon and inspect any Lot and any improvements thereon for the purposes of ascertaining whether the 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 persons shall be deemed to have committed a trespass or other wrongful acts by reason of such entry or inspection.

The Association or any Owner of any Lot contained within Waterstone 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. Failure by any Owner to enforce any of such proceedings shall in no event be deemed a waiver of the right to do so thereafter.

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

ARTICLE VIII.  
RESTRICTIVE COVENANTS

Section 1. Residential Use. No Lots shall be used except for private residential purposes.

Section 2. Prohibited Uses and Nuisances. In order to provide for a peaceful occupation of the homes withing Emerald Ridge 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) Said property is hereby restricted to residential dwelling for residential use. All buildings or structures erected upon said Property shall be of new construction, and no buildings or structures shall be moved from other locations onto said Property, and no subsequent buildings or structures, other than single family houses shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.

(b) Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof and all easements restrictions and covenants set out in the Plat filed in the Register's Office of Madison County, Tennessee.

(c) Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the Declarant to maintain, during the period of the sale of said Lots, upon such portion of the premises as Declarant deems necessary, such facilities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the sale of said Lots, including, but without limitation, a business office, storage area, construction yard, signs, model units, and sales office.

(d) No animals, livestock or poultry of any kind shall be raised, bred, or maintained for any commercial purpose.

(e) No advertising signs (except one (1) of not more than six (6) square feet "for rent" or "for sale" sign per Lot), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property 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 business activity of any kind whatever shall be conducted in any building or in any portion of said Property; provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboard or the construction and maintenance of buildings, if any, of Declarant, its agents, and assigns during the development and sales period of Lots in Waterstone.

(f) All equipment, garbage cans, service yard, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of the private drives and street. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

(g) Without prior written approval and the authorization of the Architectural Control Committee, no exterior television or radio antennas of any sort shall be placed, allowed, or maintained upon any portion of the improvements, located upon the Property nor upon any structure situated upon the Property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna. Small dish which are not visible from the front street are permissible.

(h) No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner in favor of the other Owners.

(i) No recreation vehicles or commercial vehicles, including but not limited to boats, boat trailers, house trailers, camping trailers, motorcycles, pick-up trucks, or similar type items shall be kept other than in the garage or otherwise screened from the view of neighbors or the streets.

(j) Grass, weeds and vegetation on each Lot shall be kept mowed and maintained at regular intervals by the Home Owners Association 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. Developer, at its option and its discretion, may mow and have dead trees and debris removed from such Lots. Owners shall not place or allow debris or garbage on lots except in appropriate containers.

(k) No owner or owners shall allow garage doors to remain open for more than a reasonable time for vehicles entering or exiting to the garage and or reasonable periods for yard and residence maintenance.

(l) No obnoxious or offensive trade or activity shall be carried on upon any Lot in this planned development nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners within Waterstone.

(m) No building material of any kind or character shall be placed or stored upon any of said Lots until the Owner is ready to commence improvements. Building materials shall not be placed or stored in the street or between the curb and property lines.

(n) There shall be no violation of any rules which may from time to time be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in the Bylaws authorized to adopt such rules.

(o) There will be no fences allowed in front of the units and all fences located in the back and side yards shall be black wrought iron or black aluminum unless otherwise approved in writing by The Developer or Architectural Control Committee.

(p) No Lot Owner shall allow offensive noises or sounds such as loud music or a dog that barks from the patio or its lot.

(q) No additional or accessory structure shall be placed or built on any lot without the permission and approval of the Architectural Control Committee.



ARTICLE IX.  
COMMON EASEMENTS

Section 1. Easement of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to unintentional placement or settling or shifting or Improvements constructed, reconstructed or altered thereon.

Section 2. Easement for Utilities, Etc. Declarant hereby reserves for itself and its designees (including without limitation, the City of Jackson, County of Madison, or any utility) blanket easements upon, across, over and under all of the Common Area and to the extent shown on any plat over the Lots for ingress, egress, installation, replacing, repairing and maintaining cable television systems, master television antenna systems, security, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. This reserved easement may be assigned by Declarant by written instrument to the Association, and the Association shall accept the assignment upon such terms and conditions as are acceptable to Declarant. If this reserved easement is assigned to the Association, the Board shall, upon written request, grant such easements as may be reasonably necessary for the development of the Property described on Exhibit "A".

Section 3. Easement for Landscaping, etc. Declarant hereby reserves for itself and its designees (including without limitation, the Association) blanket easements upon, across, over and under all of the Lots and common areas for the purpose of building, maintaining, repairing or replacing the perimeter fence to be built around the development and for the landscaping mowing and maintenance of all both front, back and side yard of each lot.

ARTICLE X.  
INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area. The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit as respects bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, and a Thirty Thousand Dollar (\$30,000.00) minimum property damage limit.

Premiums for all insurance on the Common Area shall be common expenses of the Association. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost of the improvements. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance.

Cost of insurance coverage obtained by the Association for the Common Area and other improvements for which the Association is responsible shall be included as an Assessment as defined in Article VI.

The Association's Board of Directors shall make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) That no policy may be canceled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or mortgagee;

(iv) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(v) that no policy may be canceled or substantially modified without at least ten (10) days prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgement, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association.

**Section 2. Individual Insurance-Repair and Reconstruction.** By virtue of taking title to a Lot or Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty

insurance on the Lot and structures constructed thereon for full replacement cost. In the event of damage or destruction by fire or other casualty, the Owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damage or destroyed portions or the improvements in a workmanlike manner in conformance with the original plans and specifications of the building (including landscaping). In the event the Owner refuses or fails to so repair or rebuild any and all such damage to his improvements within thirty (30) days, the Association, by and through its Board of Directors, is hereby authorized by such Owner to repair and rebuild the improvements in a good and workmanlike manner in conformity with the original plans and specifications. The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association will have a lien securing the payment of same identical to that provided for in Article VI, securing the payment of said sums expended and subject to the power of sale and foreclosure as set forth in said Article.

The individual Owners shall furnish a certificate of insurance to the Association or its manager on a yearly basis.

#### ARTICLE XI MORTGAGEE'S RIGHTS

Upon request, the Association shall make available to any Lot Owner and lender, and to any holder, insurer, or guarantor of any first mortgage current copies of this Declaration, the Bylaws, and other rules concerning the affairs and management of Waterstone, and the books, record, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours.

Upon request, the Association shall furnish to any holder of a first mortgage a financial statement of the Association's immediately preceding fiscal year.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the unit number or address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

- (a) any condemnation or casualty loss that affects either a material portion of the project of the Lot securing its mortgage;
- (b) any sixty (60) days delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
- (c) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners' Association;
- (d) any proposed act that required the consent of a specified percentage of mortgage holders.

The consent of at least sixty-seven percent (67%) of the votes and the consent of the Declarant, as long as it owns any land subject to this Declaration, and the approval of the eligible holders of first mortgages on Lots to which at least sixty-seven percent (67%) of the votes subject to a mortgage appertain, shall be required to terminate the Association.

The consent of at least sixty-seven percent (67%) of the votes and of the Declarant, as long as it owns any land subject to this Declaration, and the approval of eligible holder of first mortgage on individual Lots to which at least fifty-one percent (51%) of the votes subject to a mortgage appertain, shall be required to materially amend any provisions of the Declaration, Bylaws, or Charter of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following: (i) voting; (ii) assessments, assessment liens, not including a subordination of said lien; (iii) reserves for maintenance, repairs, and replacement of the Common Area; (iv) insurance or fidelity bond; (v) rights to use of the Common Area; (vi) responsibility for maintenance and repair of the Property; (vii) boundaries of any residential Lot; (viii) imposition of any right of first refusal or similar restrictions of the right of any Owner to see, transfer or otherwise convey his Lot; (ix) any provisions included in the Declaration, Bylaws, and Charter of Incorporation which are for the express benefit of the holders, guarantors or insurers of first mortgages on residential units. Which provisions do not set out a required number of votes to amend the particular provision.

## ARTICLE XII GENERAL PROVISIONS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term or thirty (30) years from the date this Declaration is recorded, unless otherwise expressly limited herein, after which time said covenants shall be automatically extended for successive periods of ten (ten) years each. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Owners holding not less than sixty-seven percent (67%) of the votes of the membership at any time. Any amendment must be properly recorded to be effective. During the first three (3) years from the date of the recording of this Declaration, any amendment must also be approved by the Declarant.

NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DECLARANT RESERVES THE RIGHT FOR A PERIOD OF FIVE (5) YEARS FROM THE DATE HEREOF TO UNILATERALLY AMEND THIS DECLARATION TO THE REQUIREMENTS OF ANY GOVERNMENTAL AGENCY, FEDERAL, STATE OR LOCAL, AND FOR THE REQUIREMENTS OF ANY MORTGAGE LENDER OR FOR ANY REASON THAT THE DECLARANT DEEMS ADVISABLE FOR THE ORDERLY DEVELOPMENT OF WATERSTONE.

Section 2. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a Member on the records of the Association at the time of such mailing.

Section 3. Enforcement. The Declarant, the Association, or any Member, shall have the right to enforce these covenants and restrictions 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; and 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 by the Association shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collective in the same manner as assessment hereunder.


Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

Section 5. Waiver. No restriction, condition, obligation or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 6. Gender, Etc. Whenever in this Declaration the context so requires, the singular number shall include the plural and the converse; and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused these presents to be signed by the officer duly authorized so to do as of the day and year first above written

WATERSTONE

BY:  \_\_\_\_\_  
JERRYLE WINBERRY

BY:  \_\_\_\_\_  
DEBORAH WINBERRY

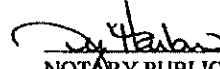
STATE OF TENNESSEE

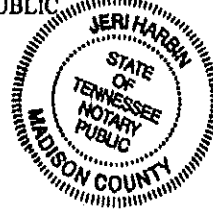
COUNTY OF MADISON

Personally appeared before me, a Notary Public in and for State and County, JERRY E. WINBERRY and wife, DEBORAH WINBERRY, the within named bargainors with whom I am personally acquainted, and who acknowledged that they executed the within instrument for the purposes therein contained.

WITNESS MY HAND AND SEAL, this the 2<sup>nd</sup> day of October, 2008

My Commission Expires:  
1-26-10

  
NOTARY PUBLIC



**"EXHIBIT B"**  
**BY-LAWS**  
**OF**

**WATERSTONE PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**Members (Unit Owners)**

**Section 1. Eligibility.** The members of the Waterstone Property Owners Association, Inc., a Tennessee Non-Profit Corporation, shall consist of the respective Lot or Unit Owners "Lot" and "Unit" owners are the same and are used interchangeably of the, (the "Property"), in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Unit Owners. These and other terms are used in these Bylaws as they are defined in the Master Deed for WATERSTONE, which Master Deed is recorded in the office of the Register of Deeds of Madison County, Tennessee. The words "member" or "members" as used in these Bylaws mean and shall refer to "Unit Owner" or "Lot Owner", as the case may be, as defined in the Master Deed. If a Unit Owner is a trust, then the member shall be the beneficiary of such trust.

**Section 2. Succession.** The membership of each Unit Owner shall terminate when such Owner ceases to be a Unit Owner, and upon the sale, transfer or other disposition of such Owner's ownership interest in the Property, such Owner's membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

**Section 3. Regular Meetings.** The first regular annual meeting of Unit Owners (the "First Meeting") may be held, subject to the terms hereof, on any date, at the option of the Board, provided, however, that said First Meeting shall be held not less than thirty (30) days and not more than one hundred twenty (120) days after Developer has sold and delivered its deed for all Units at any time brought under the provisions of the Master Deed, but in any event not later than five (5) years following conveyance of the first Unit by Developer. Subsequent to the First Meeting, there shall be a regular annual meeting of Unit Owners held each year within fifteen (15) days after the end of each fiscal year of the Association. All such meetings of Unit Owners shall be held at such place and at such time as specified in the written notice of such meeting which shall be delivered to all Unit Owners at least ten (10) days prior to the date of such meeting.

**Section 4. Special Meetings.** Special meetings of the Unit Owners may be called by the President or by a majority of the directors of the Board, or by Unit Owners having at least one-tenth (1/10) of the votes entitled to be at such meeting. Said special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

**Section 5. Delivery of Notice of Meetings.** Notices of meetings may be delivered either personally or by mail to a Unit Owner at the address given to the Board by said Unit Owner for such purpose, or the Unit Owner's unit, if no address for such purpose has been given to the Board.

**Section 6. Voting.** The aggregate number of votes of all Unit Owners shall be equal to the total of all Units which are subject to the Master Deed, and shall be divided among the respective Unit Owners with one (1) vote allocated to each Unit as defined in the Master Deed. If any Unit Owners consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. The Developer may exercise the voting rights with respect to Units owned by Developer and the Developer will have these votes for each lot or unit which he owns.

No Unit Owner who is in default for more than 60 days in the payment of assessments hereunder shall be entitled to exercise the right to vote hereunder until such Owner has cured such default. A Unit Owner shall be deemed to be in default if such Owner has not paid his assessments to the Board, or their agent, within ten (60) days after the date such assessments are due. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

**Section 7. Quorum.** A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting.

## ARTICLE II

### Board of Directors

**Section 1. Number, Election and Term of Office.** The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the "board of administrators", and sometimes referred to herein as the "Board") shall consist of five (5) members (hereinafter referred to as "directors"). Directors shall be elected at the regular annual meeting of Association members by the vote of Unit Owners as hereinafter provided, except that the Developer shall act as the Interim Board of Directors, ("Interim Board") until the First Meeting. At the First Meeting, the Unit Owners shall among other business elect five (5) members of the first Board of Directors ("First Board"). Those candidates for election as director receiving the greatest number of votes cast either in person or by proxy at the meeting shall be elected. Directors, except for members of the First Board and Interim Board shall hold office for the term of two (2) years and until his or her successor shall be elected and qualified.

**Section 2. Qualification.** Except for members of the Interim Board, each director shall be a Unit Owner or the spouse of a Unit Owner (or, if a Unit Owner is a trustee of a trust, a director may be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, a director may be an officer, partner or employee of such Unit Owner or beneficiary). If a director shall cease to meet such qualifications during this term, such director shall cease to be a director and his place on the Board shall be deemed vacant.

**Section 3. Vacancies.** Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the director succeeded.



**Section 4. Meetings.** A Regular annual meeting of the Board shall be held within ten (10) days following the regular annual meeting of Unit Owners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board or ten (10) percent of the Lot owners on not less than forty-eight (48) hours notice in writing to each director, delivered personally or by mail or telegram. Any director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A director's attendance at a meeting shall constitute waiver of notice of such meeting.

**Section 5. Removal.** Any director may be removed from office for cause by the vote of three-fifths (3/5) of the total vote of the Unit Owners.

**Section 6. Compensation.** Directors shall receive no compensation for their services as directors, unless expressly provided for in resolutions duly appointed by the Unit Owners.

**Section 7. Quorum.** Three (3) directors shall constitute a quorum.

**Section 8. Powers and Duties.** The Board shall have the following powers and duties:

(a) to elect and remove the officers of the Association as hereinafter provided;

(b) to administer the affairs of the Association and the Property;

(c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operated the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that the First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property; provided further, that the Board shall not have the authority to adopt any form of management of the Property which excludes professional management by an independent agent;

(d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;

(e) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;

(f) to provide for the maintenance, repair and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;

(g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

(h) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

(i) unless otherwise provided herein or in the Master Deed, to comply with the instructions of a majority of the Unit Owners (as said majority is defined in paragraph 1 (i) of the Master Deed), as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;

(j) to exercise all other powers and duties of the board of managers or Unit Owners as a group referred to in the Horizontal Property Act of the State of Tennessee and all powers and duties of a board of managers or a board of directors referred to in the Master Deed or these Bylaws.

**Section 9. Non-Delegation.** Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners.

### **ARTICLE III** **Officers**

**Section 1. Designation.** At each regular annual meeting, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a *President*, who shall be a director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Association;

(b) a *Secretary*, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent;

(c) a *Treasurer*, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional officers as the Board shall see fit to elect.

**Section 2. Powers.** The respective officer shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

**Section 3. Term of Office.** Each officer shall hold office for the term of one (1) year and until a successor shall have been appointed or elected and qualified.

**Section 4. Vacancies.** Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded. Any officer may be removed for cause at any time by vote of three-fifths (3/5) of the total members of the Board at a special meeting thereof.

**Section 5. Compensation.** The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Unit Owners.

#### **ARTICLE IV**

##### **Assessments**

**Section 1. Annual Budget.** The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

**Section 2. Assessments.** The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding third month of the year covered by the annual budget, each Unit Owner shall pay, as such Owner's respective quarterly assessment for the common expenses, such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Unit owner shall be in accordance with such Owner's respective ownership interest in the Common Elements as set forth in the Master Deed and Declaration of Covenants and Restrictions. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new quarterly assessments for any year, or shall be delayed in doing so, each Unit owner shall continue to pay quarterly the amount of such Owner's respective quarterly assessment as last determined. Each Unit Owner shall pay such Owner's quarterly assessment on or before the first day of each quarter to the managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Unit, the Common Elements, or the Limited Common Elements. The members can vote to have an annual assessment instead of a monthly assessment.

**Section 3. Partial Year or Month.** For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the quarterly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of occupancy of such Owner's Unit, each Unit Owner shall pay such Owner's assessment for the following quarter or fraction of a quarter, which assessment shall be in proportion to the Owner's respective ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

**Section 4. Annual Report.** Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

**Section 5. Supplemental Budget.** In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated common expenses and limited common expenses for the remainder of such year will be inadequate, then the board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for such Owner's proportionate share of such supplemental budget.

**Section 6. Expenditures.** Except for the Management Agreement described in Article II, Section 8(c) hereof and expenditures and contracts specifically authorized by the Master Deed and Bylaws, the Board shall not approve any expenditure in excess of Five Thousand and no/100 (\$5,000.00) Dollars unless required for emergency repair, protection or operation of the Common Elements or Limited Common Elements, nor enter any contract for more than three (3) years without the prior approval of three-fifths (3/5) of the votes of the Unit Owners.

**Section 7. Records and Statement of Account.** The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

The Board shall, upon receipt of ten (10) days written notice to it or the Association and upon payment of a reasonable fee, furnish to any Unit Owner a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

**Section 8. Discharge of Liens.** The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit ownership. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

**Section 9. Holding of Funds.** All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners.

## ARTICLE V

### Use and Occupancy Restrictions

**Section 1.** See the Declaration of Covenants and Restrictions filed simultaneously with these By-Laws for the Restrictive Covenants.

**Section 2. Use by Developer.** During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

## ARTICLE VI

### Contractual Powers

No contract or other transaction between the Association and one or more of its directors or between the Association and any corporation, firm or association (Except Developer) in which one or more of the directors of the Association are directors, or are financially interested, is void or voidable because such director or directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exist:

- (a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such director or directors; or
- (b) the contract or transaction is just and reasonable as to the corporation at the time it is authorized or approved.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

## ARTICLE VII

### Amendments

To the extent such amendments are not in conflict with the Charter of the Association, these Bylaws may be amended or modified from time to time by action or approval of two-thirds (2/3) of the Unit Owners casting one (1) vote for each Unit owned, as provided in Article I, Section 6 and 7 of these Bylaws. Such amendments shall be recorded in the Register's Office of Madison County, Tennessee. Developer may, in his sole discretion, amend these Bylaws until such time that a Board of Directors is elected by the Lot Owners.

**ARTICLE VIII**  
**Indemnification**

- (a) For any breach of a director's duty of loyalty to the Association or its members;
- (b) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or
- (c) Under the provisions of TCA §48-18-304.

The Association shall indemnify and hold harmless each of its director, officers and members from and against all contractual and other liabilities to others arising out of contracts made by or other acts of such persons on behalf of the Unit Owners, or arising out of their status as directors, officers, or members, to the extent permissible and allowable under TCA §48-58-501 through 509 and TCA §48-58-601, and in accordance with the aforescribed statutes. The Association and the Board shall have the power and responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article.

**ARTICLE IX**  
**Mortgages**

**Section 1. Notice to Board.** A Unit Owner who mortgages his Unit shall notify the Board of the name and address of the mortgagee and shall file a copy of the note and deed of trust or mortgage with the Board. The Board shall maintain such information in a book entitled "Mortgages of Units" or "Mortgages of Lots".

**Section 2. Notice of Unpaid Common Charges.** The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from or any other default by the owner of the mortgaged Unit.

**Section 3. Notice of Default.** The Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board.

**Section 4. Interest of Valid First Mortgagee.** The interest of a valid first mortgagee shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first mortgagee has incorporated the terms of these Bylaws, the Master Deed and the contract in its deed of trust, then said first mortgagee may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust notwithstanding any enforcement instituted by the Board.

**ARTICLE X**  
**Definition of Terms**

The terms used in these Bylaws, to the extent they are defined herein, shall have the same definition as set forth in the Master Deed for the horizontal property regime known as "Waterstone" and the Declaration of Covenants and Restrictions such may be amended from time to time, which Master Deed is recorded in the Register's Office of Madison County, Tennessee.

The term "member", as used in these Bylaws, means "Unit Owner" or "Lot Owners" as defined in the Master Deed.

#### ARTICLE XI

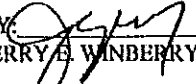
##### Conflicts


These Bylaws are set forth to comply with the requirements of the "Tennessee Non-Profit Corporation Act" so designated at TCA §48-51-101, now in existence, and as it may be amended from time to time, to allow these Bylaws to control in specific situations where such law allows. In case any provision herein shall be invalid as being impermissible under any provision within the "Tennessee NonProfit Corporation Act", or in case any of these Bylaws conflict with a mandatory provision of said "Tennessee Non-Profit Corporation Act", or with the Master Deed, the provisions of said statute or the Master Deed as the case may be, shall control.

There has been filed simultaneously with the filing of the Master Deed and Bylaws, Declarations of Covenants, Conditions, and Restrictions and the Declaration of Covenants and Restrictions are incorporated by reference herein and are a part of the By-Laws, however where the Declaration of Covenants, Conditions and Restrictions conflict with these By-Laws, said By-Laws shall control.

The undersigned hereby certifies that the foregoing Bylaws were duly adopted as the Bylaws of Waterstone Property Owners Association, on this the 2<sup>nd</sup> day of October, 2008.

WATERSTONE

BY:   
JERRY E. WINBERRY

BY:   
DEBORAH WINBERRY

BK/PG:T1843/1231-1261

08015130

SI FEE (AL - RESTRICTIONS)	
DEKALA MARCH 08154	
10/07/2008 - 04:33 PM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	195.00
UP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	197.00

STATE OF TENNESSEE, MADISON COUNTY

LINDA WALDON  
REGISTER OF DEEDS





This instrument prepared by:  
Holmes, Rich & Sigler P.C.  
218 West Main Street  
Jackson, Tennessee 38301

**MASTER DEED**

**FOR**

**WATERSTONE**

(A Horizontal Property Regime)

**THIS MASTER DEED**, made and entered into by Jerry E. Winberry and wife, Deborah Winberry, for convenience hereinafter referred to as the "Developer".

WITNESSETH:

**WHEREAS**, the Developer is the legal title holder of certain improved real estate located in the County of Madison, State of Tennessee, and described on "EXHIBIT A" attached hereto (the "Parcel"); and

**WHEREAS**, the Developer intends to and does hereby submit the above-described parcel of real estate together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all right and privileges belonging or in any way pertaining thereto (the "Property") to the provisions of the Horizontal Property Act of the State of Tennessee for the express purpose of establishing thereon a horizontal property regime to be known as Waterstone; and

**WHEREAS**, the Developer further desires to establish said horizontal property regime for its own benefit and for the mutual benefit of all future owners or occupants of the Property or any part thereof, and intends that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring any interest in the Property, shall hold such interest subject to certain rights, easements and privileges in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof, as hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of commercial uses on the Property, and are established and attractiveness of the Property; and

**WHEREAS**, the Developer may incorporate, but shall not be obligated to so incorporate, additional land which would be evidenced by the recordation of an amendment or amendments to this Master Deed annexing such phasc or phases as hereinafter provided.

**NOW, THEREFORE**, the Developer declares as follows:

1. **Definitions.** As used herein, unless the context otherwise requires:

(a) "Act" means the Horizontal Property Act of the State of Tennessee, Tennessee Code Annotated, 66-27-101, et seq.

(b) "Association" means Waterstone Property Owners Association, Inc., a Tennessee not-for-profit corporation.

(c) "Board" means the Board of Waterstone Property Owners Association, Inc. a Tennessee not-for-profit corporation.

(d) "Building" or "Buildings" means the buildings located on the Parcel and forming part of the Property and containing the Units, and the buildings. The "Building" or "Buildings" are and shall be delineated on the site plan/plat.

Madison County Assessor

1

Map 338P Par 3 CP PR

Value 0 Date 10-2-08

(e) "Bylaws" means the Bylaws of Waterstone Property Owners Association, Inc. attached hereto as "EXHIBIT B" and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Master Deed dealing with the administration and maintenance of the Property shall be deemed to be a part of the Bylaws.

(f) "Common Elements" means all of the Property except for the Units, and, without limiting the generality of the foregoing, shall include those items defined as "General Common Elements" in the act, including the following:

(1) The Parcel;

(2) Any common foundations, including common bearing walls and columns, beams, supports, corridors, roofs, halls, stairways and entrances and exits or communication ways, parking areas, sidewalks and lawn areas;

(3) ~~All yards, gardens and~~ entrances and fences except as otherwise herein provided, stipulated, or shown on the site plan/plat;

(4) All compartments or installations of central services, if any, which provide power, light, gas, cold and hot water, and all devices or installations existing for common use (but not including installations situated entirely within a Unit and serving only such Unit);

(5) Any common meeting room, or recreational facilities (it being understood and declared that the Developer is not obligated to construct or provide any such amenities or facilities);

(6) Pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely within a Unit and serving only such Unit);

(7) All other elements of the Buildings and parts of the Property desirable or rationally of common use or necessary or convenient to the existence, maintenance and safety of the condominiums regime established by this Master Deed.

(g) "Developer" means Jerry E. Winberry and wife, Deborah Winberry, their successors and assigns, provided such successors or assigns are designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.

(h) "Limited Common Elements" means all Common Elements contiguous to and serving a single Unit or a certain number of Units to the exclusion of other Units, as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit or Units either in this Master Deed, on the Plat, or by later decision of all of the Unit Owners. ~~Said Limited Common Elements shall include, but shall not be limited to, exterior doors, windows, and window frames and sash, any separated furnace, air conditioner, or water heater located within or adjacent to a Unit and serving only such Unit, any pipes, ducts, electrical wiring and conduits located entirely within a Unit and serving only such Unit, and any patio, deck or balcony adjacent to a Unit but serving only such Unit.~~

(i) "Majority" or "Majority of the Unit Owners" means the owners of more than fifty percent (50%) of the voting rights of the Unit Owners.

(j) "Master Deed" means this instrument, as amended from time to time.

(k) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

(l) "Parcel" means the parcel or tract of real estate, described on "EXHIBIT A" attached to this Master Deed. Upon amendment to this Master Deed establishing an additional phase or phases of Waterstone "Parcel" shall thereafter mean the real estate described in said instrument which is therein subjected to the provisions of this Master Deed, plus the real property described on Exhibit A hereto, and any additional real property previously brought under the provisions hereof.

(m) "Person" means a natural individual, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.

(n) "Site Plan" or "Plat" means the plat or survey of the Parcel submitted to the provisions of the Act showing the number of each unit expressing its area, location and other data necessary for identification, said site plan/plat for Waterstone, as recorded in Book P10, Page 624, in the Register's Office of Madison County, Tennessee.

(o) "Property" means all the land and space comprising the Parcel, and all improvements and structures thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures, and equipment intended for the mutual use, benefit or enjoyment of the Unit owners, submitted to the provisions of the act. Upon incorporation of an additional phase or phases into ~~Emerald Ridge~~ as hereinafter provided, the "Property" shall be deemed to include such additional phase or phases.

(p) "Record" or "Recording" refers to the record or recording in the office of the Register of Deed of Madison County, Tennessee.

(q) "Unit" or "Lot" can be used interchangeably and shall consist of the building located on the Lot. Each Unit is numbered as shown on the site plan/plat, and the boundaries of each Unit shall be the entire building located on the lot and to the center of any common walls. Any Unit may be jointly or commonly owned by more than one person. It is intended that the term "Unit" as used in this Master Deed shall have the same meaning as the term "Lot" as used in the Act.

(r) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit, and of the undivided interest in the Common Elements appurtenant thereto, and shall be deemed the same as a "co-owner" under the Act. Unless specifically provided otherwise herein, the Developer shall be deemed a Unit Owner so long as he is the legal title holder of any Unit.

2. Submission of Property to the Act. The Developer, by recording the Master Deed, does hereby submit and subject the Parcel and the Property to the provisions of the Act and hereby establishes a horizontal property regime as authorized and described in the Act and to be hereafter known as Waterstone.

3. Site Plan or Plat. The Plat sets forth the numbers, areas, locations, and other data, as required by the Act.

4. Units. The legal description of each Unit shall consist of the identifying number or symbol as shown on the Plat. Every deed, lease, mortgage, deed of trust or other instrument shall legally describe a Unit by its identifying number or symbol as shown on the Plat, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause such Owner's Unit to be separated into any tracts or parcels different from the whole unit as shown on the plat.

5.

(a) Association of Unit Owners and Administration and Operation of the Property. There has been or will be formed an Association having the name Waterstone Property Owners Association, Inc., a Tennessee not-for-profit corporation, which Association shall be the governing body for all of the Unit Owners and shall be operated to provide for the maintenance, repair, replacement, administration, operation and care of the Property as provided in the Act, this Master Deed and Bylaws. The Bylaws for the Association shall be the Bylaws attached to this Master Deed as "Exhibit B" and made a part hereof. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the Master Deed and Bylaws. Each Unit Owner shall be a member of the Association so long as such Owner is a Unit Owner. A Unit Owner's membership shall automatically terminate when such Owner ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners with one (1) vote granted to each Unit. Upon the incorporation of an additional phase or phases into Waterstone the aggregate number of votes of the Association shall automatically increase to the total of all Units of all phases then incorporated into the horizontal property regime with one (1) vote granted to each Unit. All Unit Owners of such additional phase or phases shall automatically become members of the Association.

(b) Management of Property. The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of subparagraph (c) below. The cost of such services shall be a common expense, as defined in paragraph 10 below.

(c) Initial Management Contract. The First Board, appointed as provided herein, shall ratify and approve the Management Agreement (if there is one) between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property, for a terms as approved by said First Board, but not to exceed one (1) year. However, the Board may elect not to employ a manager or enter into a management contract.

(d) Use by Developer. During the period of a sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to an egress from the Buildings and Property as may be required for purposes of sale of the Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units, or as a sales office, and may maintain customary signs in connection therewith.

(e) Non-Liability and Immunity of Board, Officers and Developer. The Developer and the Board and Officers of the Association shall have such limitations of liability and immunity from actions for breach of fiduciary duty, to the extent allowable under TCA 48-58-601, and subsequent amendments thereto. The Association shall indemnify all officers and directors thereof to the extent allowable under TCA 48-58-501 through 509.

(f) Interest of Association in Common Elements. Ownership of the Common Elements is allocated as described in Section 7 hereof. The Association shall have no ownership interest in the Common Elements.

(g) Signage. Any and all signs must be approved by the Developer. See the Restrictions as recorded in the Declaration of Restrictions.

6. Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of the Master Deed or Bylaws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

7. Ownership of the Common Elements. Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, with each Unit being allocated its percentage or fractional interest of the Common Elements. Upon recordation of an amendment to this Master Deed adding an additional phase or phases to the horizontal property regime, then the percentage ownership in the common elements shall be automatically adjusted such that each Unit shall be allocated an equal percentage ownership. The percentages of ownership interest shall remain constant unless hereafter changed by the addition of a phase or phases to the horizontal property regime by Developer, or otherwise by recorded amendment to this Master Deed consented to in writing by the Unit Owners, in accordance with the requirements hereinafter contained. Said ownership interest in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentage of Ownership. The ownership of each Unit shall not be conveyed separate from the percentage of ownership in the Common Elements corresponding to said Unit. The undivided percentage of ownership in the Common Elements corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering Unit.

8. Use of the Common Elements. Except as hereinafter set forth, each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements and portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to each Unit Owner and such Owner's agents, customers, servants, tenants, family members, customers, invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements contiguous to and serving such Unit alone or with adjoining Units. Such rights to use the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, Master Deed, Bylaws and any rules and regulations established by the Association. In addition, the Association shall have the authority to lease grant concessions or grant easements with respect to parts of the Common Elements, subject to the provisions of the Master Deed and Bylaws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe.

9. Storage Areas and Parking Spaces. Any storage areas on the Property, except those inside the Units and those which are Limited Common Elements, shall be part of the Common Elements and may be allocated with exclusive use thereof assigned by the Developer to the respective Unit Owners, and shall be used by such Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe. Parking spaces within the Parcel shall be part of the Common Elements as provided herein, and may be allocated with exclusive use thereof assigned by the Developer, or the Board, to the respective Unit Owners, and shall be used by such Unit Owners in such manner and subject to such rules and regulations as the Board may prescribe.

10. (a) Common Expenses. Each Unit Owner shall pay his proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Master Deed and Bylaws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair thereof and any and all replacements and additions thereto. Such proportionate share of the common expenses for such Unit Owner shall be in accordance with such Owner's percentage of ownership in the Common Elements. Payment of common expenses, including any prepayment thereof required by any contract for a sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. No Unit Owner shall be exempt from payment of such Owner's proportionate share of the common expenses by waiver or non-use of enjoyment of the Common Elements or Limited Common Elements, or by abandonment of such Owner's Unit. If any Unit Owner shall fail or refuse to

make such payment of the common expenses when due, the amount thereof, together with interest thereon at the rate of twelve percent (12%) per annum, after said common expenses become due and payable, shall constitute a lien on the interest of such Unit Owner in the Property as provided in the Act. Each assessment for common expenses against a Unit shall be the personal obligation of the Owner of the Unit at the time the assessment is due. A successor in title to a Unit shall not be personally obligated to pay any unpaid assessments for common expenses which have been levied against a Unit unless such successor in title expressly assumes the payment of the same. Provided, however, any lien encumbering a Unit as above described shall not be affected by transfer of a Unit.

The Developer shall not be required to expend from its own funds any sums of money for maintenance, improvements or any other expenses of the administration of the Common Elements, and no Unit owned by the Developer shall be assessed for common expenses, or otherwise, until such time as construction of such Unit is completed and occupied by a tenant of Developer, or is sold by the Developer. This paragraph of Section 10, sub-section (a), may not be modified or amended without the unanimous written consent of all Unit Owners.

(b) Enforcement. In the event any Unit Owner fails to maintain such Owner's Unit, or the Limited Common Elements attributable to such Unit, or in the event any Unit Owner fails to pay such Owner's proportionate share of any common expense when such is due, then in any such event the Board may after ten (10) days' notice to the defaulting Unit Owner, perform such maintenance, advance and pay such sums, or do any other reasonable act necessary to cure such default. The Association shall have a lien against the Unit of the defaulting Unit Owner securing payment of the sums expended or advanced, and shall be entitled to enforce such lien by filing suit in a court of competent jurisdiction. In the event the Association is successful in such suit, it shall be entitled to recover reasonable attorney fees and costs incurred in such suit and enforcement of its rights.

(c) Mortgage and Deed of Trust Protection. The lien for common expenses payable by a Unit Owner shall be subordinate to the lien of a recorded mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the mortgagee or beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses its mortgage or deed of trust. This subparagraph (c) shall not be amended, changed, modified or rescinded without the prior written consent of all mortgagees and deed of trust beneficiaries of record.

(d) Special Assessments. In addition to the annual assessments for common expenses authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacements of capital improvements upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Unit Owners.

11. Mortgages and Deeds of Trust Each Unit Owner shall have the right, subject to the provisions herein, to make separate mortgages and deeds of trust for such Owner's respective Unit together with such Owner's respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create, or cause to be made or created, from the date hereof, any mortgage, deed of trust or other lien on or affecting the Property or any part thereof, except only to the extent of such Owner's Unit and the respective percentage interest in the Common Elements corresponding thereto.

12. Separate Real Estate Taxes. Real estate taxes shall be separately taxed to each Unit Owner for such Owner's Unit and his corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay such Owner's proportionate share thereof in accordance with such Owner's respective percentage of ownership interest in the Common Elements, and, in said event, such taxes shall be a common expense.

13. Insurance. The Board shall have the authority to and shall obtain, insurance for the Common Elements. The Unit Owners shall obtain insurance for its building against loss or damage by

fire, vandalism, malicious mischief, and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost. Such insurance shall, if possible, include all or any portion of all Limited Common Elements. Insurable replacement cost shall be deemed to be the cost of restoring the Limited Common Elements, Buildings or any part thereof to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Owner. The policy of insurance should also contain, if possible, a waiver of subrogation right by the insurer against individual Unit Owners.

In the event of damage to or destruction of any Buildings or Common Elements as a result of fire or other casualty covered by insurance proceeds (unless more than two-thirds (2/3) of the Buildings require reconstruction) the Owner shall, arrange for the prompt repair and restoration of the damaged portions of all Units, Buildings substantially in accordance with the original plans and specifications therefor. Where the insurance indemnity is insufficient to cover the cost of such repairs and restoration the deficit shall be paid by all Lot Owner directly affected by the damage. The Board shall not be responsible for the repair, replacement or restoration of any wall, ceiling or floor decorations or covering, or furniture, furnishings, fixtures, appliances, or equipment installed in the Unit by a Unit Owner or Occupant.

Reconstruction shall not be compulsory where the whole or more than two-thirds (2/3) of all the Buildings are destroyed or damaged by fire or other casualty, as determined by the Board. In such case, and unless otherwise unanimously agreed upon by the Unit Owners and their mortgagees, the insurance proceeds shall be delivered to the Unit Owners or their mortgagees, as their interests may appear, in proportion to the respective interests of the Unit Owners.

The Board shall also have the authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and worker's compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, mortgagees of record, if any, the Association, its officers, directors, Board and employees, the Developer, and the Managing Agent, if any, from liability in connection with the Common Elements. The premium for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for such Owner's corresponding percentage of ownership in the Common Elements. The Board shall retain in safekeeping any such public liability policy for six (6) years after the expiration date of the policy.

The Board shall also have authority to and may obtain such insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officers of the Association, and members of any committee appointed pursuant to the Bylaws of the Association from liability arising from the fact that said person is or was director or officer of the Association, or a member of such a committee.

Each Unit Owner shall be responsible for obtaining his own insurance on the unit and contents of such Owner's Unit, as well as additions and improvements thereto, decorations, furnishings and personal property therein, and personal property stored elsewhere on the Property. In addition, in the event a Unit Owner desires to insure against such Owner's personal liability and loss of damage by fire or other hazards above and beyond the extent that such Owner's liability, loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for all of the Unit Owners as part of the common expenses, as above provided, said Unit Owner may, at such Owner's option and expense, obtain additional insurance.

14. Maintenance, Repairs and Replacements. Each Unit Owner, at such Owner's expense, shall furnish and be responsible for all maintenance of, repairs to and replacements for Owner's Building or Unit; provided, however, the Board may choose to provide such maintenance and repairs as part of the common expense. Maintenance of, repairs to and replacements within the General Common Elements shall be the responsibility of and shall be furnished by the Association. The cost of maintenance of, repairs to and replacements within the General Common Elements shall be part of the common expenses, subject to the Bylaws, rules and regulations of the Association. To the extent not covered by the Association's insurance, the expenses for the maintenance, repair or replacement of

Limited Common Elements shall be borne by the owner of the Unit to which such Limited Common Elements are appurtenant and at the discretion of the Board, maintenance or, repairs to and replacements within the other Limited Common Elements may be assessed in whole or in part to Unit Owners benefitted thereby, and, further, at the discretion of the Board, the Board may direct Unit Owners who stand to be benefitted by such maintenance of, repairs to and replacement within the Limited Common Elements to arrange for such maintenance, repairs and replacements in the name and for the account of such benefitted Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractors' and subcontractors' sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

If, due to the act or neglect of a Unit Owner, or the agent, servant, tenant, invitee, licensee or permittee thereof, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair or replacement are required which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repair and replacement, as may be determined by the Association, to the extent not covered by the Association's insurance or sufficient proceeds are not collected from the insurance carrier.

The authorized representative of the Association, Board or of the Managing Agent with approval of the Board shall be entitled to reasonable access to the individual Units and Limited Common Elements as may be required in connection with the preservation of any individual Unit or Limited Common Element in the event of an emergency, or in connection with maintenance of, repairs or replacements within the Common Elements, Limited Common Elements or any equipment, facilities or fixtures affecting or serving the other Units, Common Elements and Limited Common Elements or to make any alteration required by any governmental authority.

15. Alterations, Additions or Improvements. Except as provided in paragraph 16 herein, no alteration of any Common Elements, or any additions or improvements thereto, shall be made by a Unit Owner without the prior written approval of the Board. The Board may authorize and charge as common expenses alterations, additions and improvements of the Common Elements as provided in the Bylaws. Any Unit Owner may make alterations, additions or improvements within the Unit of the Unit Owner without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

16. Decorating. Each Unit Owner, at such Owner's expense, shall furnish and be responsible for all decorating within such Owner's Unit and Limited Common Elements serving such Unit as may be required from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lighting and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floor and ceilings of his Unit, and such Unit Owner shall maintain said interior surfaces in good condition at such Owner's sole expense, as may be required from time to time. Said maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each such Unit Owner shall have the right to decorate such interior surfaces from time to time as such Owner may see fit and at such Owner's sole expense. Decorating of the Common Elements and Limited Common Elements (other than interior surfaces within the Units as above provided) and any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by maintenance, repair or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the common expenses.

17. Encroachments and Easements. If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown by the Plat, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.



The Association shall have the right to grant permits, licenses and easements over the common elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the horizontal property regime.

18. Association's Right to Purchase at a Foreclosure Sale. The Board shall have the power and authority to bid and purchase, for and on behalf of any Unit, or interest therein, at a sale pursuant to a deed of trust or mortgage foreclosure, a foreclosure of the lien for common expenses under the Act, or any order or direction of a court, or at any other involuntary sale, upon the consent or approval of Unit Owners owning not less than three-fifth (3/5) of the total votes of the Unit Owners. Such consent shall set forth a maximum price which the Board or its duly authorized agent may bid and pay for said unit.

The Board shall have authority to make such mortgage arrangements and special assessments proportionately amount the respective Unit Owners, and other such financing arrangements as the Board may deem desirable, in order to close and consummate the purchase or lease of a Unit, or interest therein, by the Association. However, no such financing arrangements may be secured by an encumbrance on any interest in the Property other than the Unit, or interest therein, to be purchased or leased, and the percentage interest in the Common Elements appurtenant thereto.

19. Use and Occupancy Restrictions. Subject to the provisions of the Bylaws, no part of the Property may be used for purposes other than the purposes for which the Property was designed and as allowed by zoning laws. Each unit or any two or more adjoining units used together shall be used for such uses permitted by this Master Deed, and for no other purpose. No part of the Property shall be used for residential purposes.

The Common Elements shall be used by the Unit Owners and their agents, servants, tenants, customers, invitees and licensees for access, ingress to and egress from the respective Units and for such other purposes incidental to use of the Units; provided, however, that any areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession or easement, presently in existence or entered into by the Board at some future time, affecting any part or all of said Common Elements.

20. Remedies. In the event of any violation of the provisions of the Act, Master Deed, Bylaws or rules and regulations of the Board or Association by any Unit Owner (either by his own conduct or by the conduct of any other Occupant of such Owner's Unit) the Association, or its successors or assigns, or the board, or its agent, shall have each and all of the rights and remedies which may be provided for in the Act, Master Deed, Bylaws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceeding against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to sell the Unit through judicial process as provided hereinbefore, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the statutory rate of interest until paid, shall be charged to and assessed against such defaulting Unit Owner, and shall be added to and deemed part of such Owner's respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of his respective share of the common expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner and upon all of such Owner's additions and improvements thereto and upon all of such Owner's personal property in such Owner's Unit or located elsewhere on the Property, provided, however, that such lien shall subordinate to the lien of a recorded mortgage or deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of said common expenses which become due and payable from and after the date on which the said mortgage or deed of trust owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security) or files suit to foreclose its mortgage or deed of trust. In the event of any such default by any Unit Owner, the Board and the manager or Managing Agent, if so authorized by the Board, shall have the authority to correct such default, and to do whatever may be

necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of mortgage and deed of trust liens against Units.

The violation of any restriction or condition or regulation adopted by the Board or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to any other rights provided for in this Master Deed; (1) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the Property upon which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuances of any breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) of such Unit Owner's interest in the Property and to maintain any action for possession of such unit in the manner provided by law.

If any Unit Owner (either by such Owner's conduct or by the conduct of any other occupant of his Unit) shall violate the Act or any of the covenants or restrictions or provisions of this Master Deed or the regulations adopted by the Board, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any ten (10) day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said defaulting Owner a notice in writing terminating the rights of the said defaulting Owner to continue as a Unit Owner and to continue to occupy, use or control such Owner's Unit, and thereupon an action in equity may be filed by the Board against such defaulting Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use or control the Unit Owned by him on account of said violation, and ordering that all the right, title and interest of said defaulting Owner in the Property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner from reacquiring such Owner's interest as such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxes against said defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to said defaulting Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide that the purchaser shall take the interest in the Unit Ownership sold subject to this Master Deed.

In addition to the other remedies provided for herein, in the event of a default by a Unit Owner in the payment of such Unit Owner's respective share of the common expenses which default continues ~~for a period of sixty (60) days, the Board shall have the power and authority to place such Unit Owner's name on a list of delinquent Unit Owners, which list may be posted at a place designated by the Board for notices.~~

21. (a) Amendments Annexing Additional Phase or Phases. The Developer may, but shall not be obligated to, incorporate additional area encompassed within the real property described on the attached "Exhibit A", into an additional phase or phases of the horizontal property regime governed by this Master Deed. The annexation of such additional phases shall be accomplished by the execution by Developer, and recording, of an amendment to this instrument setting forth the additional real property to be brought within the provisions of this Master Deed and reciting that it shall be held and conveyed subject to the provisions hereof as such additional phase or phases of Waterstone.

(b) Other Amendments. Except as specifically stated elsewhere herein, and except for this Section 21, any provision of this Master Deed may be changed, modified or rescinded by an instrument in writing, setting forth such change, modification or recession, signed by Unit Owners owning not less than two-thirds (2/3) of the total Units and acknowledged, provided, however that all lien holders of record have been notified by certified mail of such change, modification or rescission, and an affidavit by the secretary of the Association certifying to such mailing is made a part of such instrument.

However, if the Act, the Master Deed or Bylaws requires the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Master Deed, then any instrument changing, modifying or rescinding any provision of this Master Deed with respect to such action shall be signed by all Unit Owners or all lien holders or both as required by the Act or this Master Deed. The change, modification or rescission, whether accomplished under the provisions of the preceding paragraph, shall be effective upon recording of such instrument in the office of the Register of Deeds of Madison County, Tennessee; provided however, that no provision in this Master Deed may be changed, modified or rescinded so as to conflict with the provisions of the Act.

Notwithstanding the above, the Developer shall have the right to make and record any necessary amendment to this instrument for the express purpose of completion of development or as may be required to obtain FHA/VA and/or FNMA approval for the ~~condominium~~ development.

22. Notices. Notices provided for in the Act, Master Deed or Bylaws shall be in writing, and shall be addressed if to a Unit Owner, to the address of such Owners's Unit, and if to the Association or Board, as the case may be to the Developer Jerry E. Winberry and wife, Deborah Winberry, \_\_\_\_\_, Jackson, Tennessee 38305, or at such other address as may be hereinafter provided. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

Upon written request to the Board, the holder of any recorded mortgage or trust deed encumbering any Unit shall be given a copy of all notices permitted or required by this Master Deed to be given to the Owner or Owners whose Unit is subject to such mortgage or trust deed.

23. Severability. If any provision of the Master Deed or Bylaws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Master Deed and the Bylaws and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstance shall not be affected thereby and the remainder of this Master Deed or the Bylaws shall be construed as if such invalid part was never included therein.

24. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by this Master Deed shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the Governor of Tennessee, ~~Don Simpson~~ Phil Fredson

25. Rights and Obligations. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Master Deed. All future Unit Owners and Occupants shall be subject to and shall comply with the provisions of this Master Deed. Any restrictions or rules in the Bylaws which are more than administrative in nature such as, but not limited to, reservations and future rights of the Developer, are hereby incorporated into and made a part of this Master Deed by reference. All right, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time an interest or estate in said land, and shall inure to the benefit of such grantee in like manner as though the provisions of this Master Deed were recited and stipulated at length in each and

every deed of conveyance or contract for conveyance.

All present and future Unit Owners, tenants, and Occupants of a Unit shall be subject to, and shall comply with, the provisions of the Bylaws appended hereto and recorded herewith as they may be amended from time to time. The acceptance of a deed of conveyance, devise or of a lease to a Unit, or the entering into occupancy of any Unit shall constitute an agreement that the provisions of the said Bylaws and any rules and regulations promulgated thereunder, as they may be amended from time to time, are assumed, accepted and ratified by such Unit Owner, tenant or Occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed, conveyance or lease thereof.

The terms and conditions of the Master Deed, Bylaws and rules and regulations may be incorporated by reference in, and become part of, the agreement between any mortgagee and any present or future Unit Owner who enters into such an agreement with a mortgagee. When so incorporated, any default in the terms and conditions of the Master Deed, Bylaws and rules and regulations may be considered as a default by the mortgagee, whereupon said mortgagee, after exercising its option to declare a default, shall then have all the rights and privileges arising as a result of a default under its agreement with said Unit Owner.

26. Trustee as Unit Owner. In the event title to any Unit is conveyed to a land title holding trust, under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Unit Owners for all purposes and they shall be responsible for payment of all obligations, liens, or indebtedness and for the performances of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit. NO claim shall be made against any such title holder trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

27. Condemnation. In the event of a taking, in condemnation or by eminent domain of a part of the Common Elements, the award made for such taking shall be payable to the board for and on behalf of the Association and all mortgagees affected. If a majority of the Board in their discretion, with written consent of a majority of the mortgagees affected, approve the repair and restoration of such Common Elements, and the Board shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that the Board and the mortgagees do not approve the repair and commence restoration of such Common Elements within one hundred twenty (120) days after taking by the public or private authority, the Board shall disburse the net proceeds of such award on the basis of such Unit's percentage of ownership in the Common Elements to the Unit Owners and the mortgagees as their interests may appear.

28. Rights Reserved. The Unit Owner's right of enjoyment in the property commonly owned by the Association as herein created shall be subject to:

(a) The right of the Association, as provided in its Bylaws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations; and

(b) The right of the Association to charge reasonable fees for the use of the parts of the Common Elements; and

(c) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such diminution, dedication or transfer, or determination as to the purposes or as to the conditions thereof,

shall be effective unless the Developer (its successors or assigns) and members of the Association entitled to cast ninety percent (90%) of the total votes of members have been recorded, agreeing to such act; and

(d) The right of the Association to grant such easements and rights of way to such utility companies or public agencies or authorities as it shall deem necessary for the proper servicing and maintenance of the Common Elements and the individual Units.

29. Provisions Relative to Mortgagee's Rights and to Federal Home Loan Mortgage Corporation and Federal National Mortgage Association Regulations. Notwithstanding anything to the contrary contained in this Master Deed, or in the Bylaws which are attached hereto, all terms, conditions and regulations which are now existing, or which may be amended from time to time, by the Federal Home Loan Mortgage Corporation ("FHLMC") or Federal National Mortgage Association ("FNMA") pertaining to condominium regimes and hereby incorporated as terms and conditions of the Master Deed and Bylaws and such shall be governing upon the Property, the Developer, and the Association, so long as such terms or conditions are not inconsistent with the laws of the State of Tennessee as found in Tennessee Code Annotated, 66-27-101, et seq., as such may be amended.

Specifically, without limitation upon the foregoing, the following declarations shall be fully effective and controlling over any terms of the Master Deed or Bylaws which are in conflict. Any portions of such Master Deed or Bylaws which are in conflict with this paragraph, or any portion of the FHLMC and FNMA regulations pertaining to ~~condominium~~ regimes, are hereby deleted and the following rights or mortgagees are itemized as follows:

(a) A first mortgage, and any insurer or guarantor of any mortgage or deed of trust under Unit at his request is entitled to a financial statement of the Association for the preceding fiscal year.

(b) Any first mortgagee or other transferee, of a Unit who comes into possession of the Unit pursuant to the remedies provided in the mortgage, deed of trust, foreclosure of the mortgage or deed of trust in lieu of foreclosure shall take the property free of any claims for unpaid assessments or charges against the mortgaged Unit, which accrue prior to the time such holder comes into possession of the Unit.

(c) Unless two-thirds (2/3) of the first mortgagees (based upon one (1) vote for each mortgage owned), or owners (other than the Developer) of Units have given their prior written approval, the Association shall not be entitled to:

(i) Change the percentage interests of ownership of all or any condominium Unit or Unit Owners, except that percentage ownership of the Common Elements may be reduced due to the addition of a phase or phases to the horizontal property regime as provided hereinabove.

(ii) Partition or subdivide any Unit or the Common Elements.

(iii) By act or omission seek to abandon the horizontal property regime of the Property, or encumber, sell or transfer the Common Elements, except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements.

(iv) Use hazard insurance proceeds for losses to any condominium Property (whether to individual Units or Common Elements) for other than the repair, replacement or reconstruction of such improvements, except as provided in Tennessee Code Annotated, 66-27-118, in case of substantial loss to the Units and/or Common Elements to the condominium project.

(d) Unit Owners, first mortgage holders, and insurers or guarantors of any first mortgage shall have the right to examine the books, records, current copies of the Master Deed and Bylaws, and rules and regulations of the Association and/or the condominium project during normal business hours and upon request.

(e) An adequate reserve fund for maintenance, repair and replacement of Common Elements which must be replaced on a periodic basis will be established and funded by regular monthly payments rather than by special assessments. A working capital fund for the initial months of operation equal to at least two (2) months' assessments for each Unit must be established, collected and transferred to the Association at the time of closing of sale by the Developer of each Unit and maintained in an account for the use and benefit of the Association.

(f) As set forth in Tennessee Code Annotated 66-27-120, all taxes, assessments and charges which may become liens prior to the first mortgage under the laws of the State of Tennessee shall relate only to the individual Unit and not to the condominium project as a whole.

(g) No Unit Owner, or any other party shall have priority over any rights of the first mortgagees of condominium Units and/or Common Elements.

(h) Any agreement for professional management of the project, whether it be by the Developer, its successors and assigns, or any other person or entity, may be terminated on ninety (90) days' written notice and the terms of any such contract shall so provided and shall not be of a duration in excess of three (3) years. Prior to passage of control from the Developer, the Association shall not be bound, directly or indirectly, to contracts or leases unless there is a right of termination of such upon not more than ninety (90) days' notice without penalty.

(i) Upon written request, the Association shall give to any mortgagee of a Unit, the FHLMC, FNMA, any lending institution servicing such mortgages as are acquired by the FHLMC or FNMA or any insurer or guarantor of a mortgage deed of trust on a Unit, timely notice in writing of any loss to or the taking of the Common Elements of the condominiums project if such loss or taking exceeds ten thousand and no/100 dollars (\$10,000.00), or of any other condemnation of casualty loss that affects either a material portion of the project or the Unit securing its mortgage, a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, or any proposed action that requires the consent of a specified percentage of mortgagees. The Association may rely upon the information contained in the book entitled "Mortgages of Units" as must be established pursuant to the Bylaws, for a list of mortgages to be notified hereby.

(j) The interest of a first mortgage in a mortgaged Unit shall be superior to the interests of any other person, group, partnership, corporation or entity of any kind, including any interest the Board, the Developer or any Unit Owner may have in any portion of the premises, regardless of the nature of the interest or the manner in which it is acquired.

(k) Notwithstanding the above, any first mortgagee shall have all of the rights granted to a first mortgagee herein, and in addition shall have all the rights granted to an institutional first mortgagee under its Deed of Trust, an under the laws of the State of Tennessee.

(l) A first mortgage of a Unit Owner, upon written request, is entitled to written notification from the Association of any default in the performance by such Unit Owner of any obligation under this Master Deed and/or Bylaws which is not cured within sixty (60) days.

(m) The casualty and liability insurance and fidelity bond coverage required to be maintained by the Association shall meet the requirements specified in FNMA Lending Guide, Chapter Three, Part 5, "Insurance Requirements".

IN WITNESS WHEREOF, the undersigned has executed this Master Deed this the \_\_\_  
day of 10-02-, 2008

WATERSTONE

BY: [Signature]  
JERRY E. WINBERRY

BY: [Signature]  
DEBORAH WINBERRY

STATE OF TENNESSEE

COUNTY OF MADISON

Personally appeared before me, a Notary Public in and for State and County, JERRY  
E. WINBERRY, the within named bargainer with whom I am personally acquainted, and who  
acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS MY HAND AND SEAL, this the 2<sup>nd</sup> day of October, 2008

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
1-26-10



STATE OF TENNESSEE

COUNTY OF MADISON

Personally appeared before me, a Notary Public in and for State and County,  
DEBORAH WINBERRY, the within named bargainer with whom I am personally acquainted, and  
who acknowledged that she executed the within named instrument for the purposes therein contained.

WITNESS MY HAND AND SEAL, this the 2<sup>nd</sup> day of October, 2008.

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
1-26-10



**"EXHIBIT B"**  
**BY-LAWS**  
**OF**

**WATERSTONE PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**Members (Unit Owners)**

**Section 1. Eligibility.** The members of the Waterstone Property Owners Association, Inc., a Tennessee Non-Profit Corporation, shall consist of the respective Lot or Unit Owners "Lot" and "Unit" owners are the same and are used interchangeably of the, (the "Property"), in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Unit Owners. These and other terms are used in these Bylaws as they are defined in the Master Deed for WATERSTONE, which Master Deed is recorded in the office of the Register of Deeds of Madison County, Tennessee. The words "member" or "members" as used in these Bylaws mean and shall refer to "Unit Owner" or "Lot Owner", as the case may be, as defined in the Master Deed. If a Unit Owner is a trust, then the member shall be the beneficiary of such trust.

**Section 2. Succession.** The membership of each Unit Owner shall terminate when such Owner ceases to be a Unit Owner, and upon the sale, transfer or other disposition of such Owner's ownership interest in the Property, such Owner's membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such ownership interest.

**Section 3. Regular Meetings.** The first regular annual meeting of Unit Owners (the "First Meeting") may be held, subject to the terms hereof, on any date, at the option of the Board, provided, however, that said First Meeting shall be held not less than thirty (30) days and not more than one hundred twenty (120) days after Developer has sold and delivered its deed for all Units at any time brought under the provisions of the Master Deed, but in any event not later than five (5) years following conveyance of the first Unit by Developer. Subsequent to the First Meeting, there shall be a regular annual meeting of Unit Owners held each year within fifteen (15) days after the end of each fiscal year of the Association. All such meetings of Unit Owners shall be held at such place and at such time as specified in the written notice of such meeting which shall be delivered to all Unit Owners at least ten (10) days prior to the date of such meeting.

**Section 4. Special Meetings.** Special meetings of the Unit Owners may be called by the President or by a majority of the directors of the Board, or by Unit Owners having at least one-tenth (1/10) of the votes entitled to be at such meeting. Said special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered.

**Section 5. Delivery of Notice of Meetings.** Notices of meetings may be delivered either personally or by mail to a Unit Owner at the address given to the Board by said Unit Owner for such purpose, or the Unit Owner's unit, if no address for such purpose has been give to the Board.



**Section 6. Voting.** The aggregate number of votes of all Unit Owners shall be equal to the total of all Units which are subject to the Master Deed, and shall be divided among the respective Unit Owners with one (1) vote allocated to each Unit as defined in the Master Deed. If any Unit Owners consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. The Developer may exercise the voting rights with respect to Units owned by Developer and the Developer will have these votes for each lot or unit which he owns.

No Unit Owner who is in default for more than 60 days in the payment of assessments hereunder shall be entitled to exercise the right to vote hereunder until such Owner has cured such default. A Unit Owner shall be deemed to be in default if such Owner has not paid his assessments to the Board, or their agent, within ten (60) days after the date such assessments are due. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

**Section 7. Quorum.** A quorum of Unit Owners for any meeting shall be constituted by Unit Owners represented in person or by proxy and holding a majority of the votes entitled to be cast at such meeting.

## ARTICLE II

### Board of Directors

**Section 1. Number, Election and Term of Office.** The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the "board of administrators", and sometimes referred to herein as the "Board") shall consist of five (5) members (hereinafter referred to as "directors"). Directors shall be elected at the regular annual meeting of Association members by the vote of Unit Owners as hereinafter provided, except that the Developer shall act as the Interim Board of Directors, ("Interim Board") until the First Meeting. At the First Meeting, the Unit Owners shall among other business elect five (5) members of the first Board of Directors ("First Board"). Those candidates for election as director receiving the greatest number of votes cast either in person or by proxy at the meeting shall be elected. Directors, except for members of the First Board and Interim Board shall hold office for the term of two (2) years and until his or her successor shall be elected and qualified.

**Section 2. Qualification.** Except for members of the Interim Board, each director shall be a Unit Owner or the spouse of a Unit Owner (or, if a Unit Owner is a trustee of a trust, a director may be a beneficiary of such trust, and if a Unit Owner or such a beneficiary is a corporation or partnership, a director may be an officer, partner or employee of such Unit Owner or beneficiary). If a director shall cease to meet such qualifications during this term, such director shall cease to be a director and his place on the Board shall be deemed vacant.

**Section 3. Vacancies.** Any vacancy occurring in the Board shall be filled by majority vote of the remaining members thereof. Any director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the director succeeded.

**Section 4. Meetings.** A Regular annual meeting of the Board shall be held within ten (10) days following the regular annual meeting of Unit Owners. Special meetings of the Board shall be held upon a call by the President or by a majority of the Board or ten (10) percent of the Lot owners on not less than forty-eight (48) hours notice in writing to each director, delivered personally or by mail or telegram. Any director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action proposed to be taken by the Board without a meeting. A director's attendance at a meeting shall constitute waiver of notice of such meeting.

**Section 5. Removal.** Any director may be removed from office for cause by the vote of three-fifths (3/5) of the total vote of the Unit Owners.

**Section 6. Compensation.** Directors shall receive no compensation for their services as directors, unless expressly provided for in resolutions duly appointed by the Unit Owners.

**Section 7. Quorum.** Three (3) directors shall constitute a quorum.

**Section 8. Powers and Duties.** The Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property;
- (c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operated the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that the First Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property; provided further, that the Board shall not have the authority to adopt any form of management of the Property which excludes professional management by an independent agent;
- (d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;
- (e) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;
- (f) to provide for the maintenance, repair and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;
- (g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

(h) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

(i) unless otherwise provided herein or in the Master Deed, to comply with the instructions of a majority of the Unit Owners (as said majority is defined in paragraph 1 (i) of the Master Deed), as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;

(j) to exercise all other powers and duties of the board of managers or Unit Owners as a group referred to in the Horizontal Property Act of the State of Tennessee and all powers and duties of a board of managers or a board of directors referred to in the Master Deed or these Bylaws.

**Section 9. Non-Delegation.** Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners.

### ARTICLE III

#### Officers

**Section 1. Designation.** At each regular annual meeting, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a *President*, who shall be a director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Association;

(b) a *Secretary*, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent;

(c) a *Treasurer*, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

(d) such additional officers as the Board shall see fit to elect.

**Section 2. Powers.** The respective officer shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

**Section 3. Term of Office.** Each officer shall hold office for the term of one (1) year and until a successor shall have been appointed or elected and qualified.

**Section 4. Vacancies.** Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded. Any officer may be removed for cause at any time by vote of three-fifths (3/5) of the total members of the Board at a special meeting thereof.

**Section 5. Compensation.** The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the Unit Owners.

#### ARTICLE IV

##### Assessments

**Section 1. Annual Budget.** The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association. Such budget shall take into account the estimated common expenses and cash requirements for the year, including but not limited to salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power, and all other common expenses. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account. The annual budget shall also take into account the estimated net available cash income for the year from the lease, operation or use of the Common Elements. The annual budget shall provide for a reserve for contingencies for the year and a reserve for replacements, in reasonable amounts as determined by the Board.

**Section 2. Assessments.** The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding third month of the year covered by the annual budget, each Unit Owner shall pay, as such Owner's respective quarterly assessment for the common expenses, such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Unit owner shall be in accordance with such Owner's respective ownership interest in the Common Elements as set forth in the Master Deed and Declaration of Covenants and Restrictions. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new quarterly assessments for any year, or shall be delayed in doing so, each Unit owner shall continue to pay quarterly the amount of such Owner's respective quarterly assessment as last determined. Each Unit Owner shall pay such Owner's quarterly assessment on or before the first day of each quarter to the managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Unit, the Common Elements, or the Limited Common Elements. The members can vote to have an annual assessment instead of a monthly assessment.

**Section 3. Partial Year or Month.** For the first fiscal year and thereafter until the First Board is elected, the annual budget shall be approved by the Interim Board. If such first fiscal year, or any succeeding fiscal year, shall be less than a full year, then the quarterly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of occupancy of such Owner's Unit, each Unit Owner shall pay such Owner's assessment for the following quarter or fraction of a quarter, which assessment shall be in proportion to the Owner's respective ownership interest in the Common Elements and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be computed by the Board.

**Section 4. Annual Report.** Within ninety (90) days after the end of each fiscal year covered by an annual budget, or as soon thereafter as shall be practicable, the Board shall cause to be furnished to each Unit Owner a statement for such year so ended, showing the receipts and expenditures and such other information as the Board may deem desirable.

**Section 5. Supplemental Budget.** In the event that during the course of any year, it shall appear to the Board that the monthly assessments, determined in accordance with the estimated common expenses and limited common expenses for the remainder of such year will be inadequate, then the board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for such Owner's proportionate share of such supplemental budget.

**Section 6. Expenditures.** Except for the Management Agreement described in Article II, Section 8(c) hereof and expenditures and contracts specifically authorized by the Master Deed and Bylaws, the Board shall not approve any expenditure in excess of Five Thousand and no/100 (\$5,000.00) Dollars unless required for emergency repair, protection or operation of the Common Elements or Limited Common Elements, nor enter any contract for more than three (3) years without the prior approval of three-fifths (3/5) of the votes of the Unit Owners.

**Section 7. Records and Statement of Account.** The Board shall cause to be kept detailed and accurate records in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine.

The Board shall, upon receipt of ten (10) days written notice to it or the Association and upon payment of a reasonable fee, furnish to any Unit Owner a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

**Section 8. Discharge of Liens.** The Board may cause the Association to discharge any mechanic's lien or other encumbrance which in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit ownership. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

**Section 9. Holding of Funds.** All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners.

## ARTICLE V

### Use and Occupancy Restrictions

**Section 1.** See the Declaration of Covenants and Restrictions filed simultaneously with these By-Laws for the Restrictive Covenants.

**Section 2. Use by Developer.** During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

## ARTICLE VI

### Contractual Powers

No contract or other transaction between the Association and one or more of its directors or between the Association and any corporation, firm or association (Except Developer) in which one or more of the directors of the Association are directors, or are financially interested, is void or voidable because such director or directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exist:

- (a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such director or directors; or
- (b) the contract or transaction is just and reasonable as to the corporation at the time it is authorized or approved.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction.

## ARTICLE VII

### Amendments

To the extent such amendments are not in conflict with the Charter of the Association, these Bylaws may be amended or modified from time to time by action or approval of two-thirds (2/3) of the Unit Owners casting one (1) vote for each Unit owned, as provided in Article I, Section 6 and 7 of these Bylaws. Such amendments shall be recorded in the Register's Office of Madison County, Tennessee. Developer may, in his sole discretion, amend these Bylaws until such time that a Board of Directors is elected by the Lot Owners.

**ARTICLE VIII**  
**Indemnification**

- (a) For any breach of a director's duty of loyalty to the Association or its members;
- (b) For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or
- (c) Under the provisions of TCA §48-18-304.

The Association shall indemnify and hold harmless each of its director, officers and members from and against all contractual and other liabilities to others arising out of contracts made by or other acts of such persons on behalf of the Unit Owners, or arising out of their status as directors, officers, or members, to the extent permissible and allowable under TCA §48-58-501 through 509 and TCA §48-58-601, and in accordance with the aforescribed statutes. The Association and the Board shall have the power and responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Article.

**ARTICLE IX**  
**Mortgages**

**Section 1. Notice to Board.** A Unit Owner who mortgages his Unit shall notify the Board of the name and address of the mortgagee and shall file a copy of the note and deed of trust or mortgage with the Board. The Board shall maintain such information in a book entitled "Mortgages of Units" or "Mortgages of Lots".

**Section 2. Notice of Unpaid Common Charges.** The Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from or any other default by the owner of the mortgaged Unit.

**Section 3. Notice of Default.** The Board, when giving notice to a Unit Owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such Unit whose name and address has theretofore been furnished to the Board.

**Section 4. Interest of Valid First Mortgagee.** The interest of a valid first mortgagee shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first mortgagee has incorporated the terms of these Bylaws, the Master Deed and the contract in its deed of trust, then said first mortgagee may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust notwithstanding any enforcement instituted by the Board.

**ARTICLE X**  
**Definition of Terms**

The terms used in these Bylaws, to the extent they are defined herein, shall have the same definition as set forth in the Master Deed for the horizontal property regime known as "Waterstone" and the Declaration of Covenants and Restrictions such may be amended from time to time, which Master Deed is recorded in the Register's Office of Madison County, Tennessee.

The term "member", as used in these Bylaws, means "Unit Owner" or "Lot Owners" as defined in the Master Deed.

#### ARTICLE XI

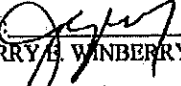
##### Conflicts

These Bylaws are set forth to comply with the requirements of the "Tennessee Non-Profit Corporation Act" so designated at TCA §48-51-101, now in existence, and as it may be amended from time to time, to allow these Bylaws to control in specific situations where such law allows. In case any provision herein shall be invalid as being impermissible under any provision within the "Tennessee NonProfit Corporation Act", or in case any of these Bylaws conflict with a mandatory provision of said "Tennessee Non-Profit Corporation Act", or with the Master Deed, the provisions of said statute or the Master Deed as the case may be, shall control.

There has been filed simultaneously with the filing of the Master Deed and Bylaws, Declarations of Covenants, Conditions, and Restrictions and the Declaration of Covenants and Restrictions are incorporated by reference herein and are a part of the By-Laws, however where the Declaration of Covenants, Conditions and Restrictions conflict with these By-Laws, said By-Laws shall control.

The undersigned hereby certifies that the foregoing Bylaws were duly adopted as the Bylaws of Waterstone Property Owners Association, on this the 2<sup>nd</sup> day of October, 2008.

WATERSTONE

BY:   
JERRY H. WINBERRY

BY:   
DEBORAH WINBERRY



EXHIBIT A  
**SURVEYING SERVICES, INC.**  
41 HERITAGE SQUARE  
JACKSON, TENNESSEE 38305  
(Ph) 731-664-0807 · (fax) 731-668-3586

R. BRUCE RICHARDSON  
R.L.S. 1420

DAVID EVANS, P.E. 6244  
R.L.S. 171

09/07/2007

**CERTIFICATE OF SURVEY**  
Waterstone  
3<sup>rd</sup> Civil District  
Madison County, Tennessee

**22.790 ACRES**

**BEGINNING** at an iron pin found in the south margin of Ashport Road (25 feet from the centerline) and being the northwest corner of Lot 114 of Shiloh Springs – Section I as shown in Plat Book 10 Page 471 and being the northeast corner of the Franklin James Limited Family Partnership property as described in Deed Book 651 Page 5 in the Register's Office of Madison County, Tennessee of which the herein described property is a portion of; runs thence leaving the south margin of said Ashport Road following the west property line of Shiloh Springs – Section I, south 03 degrees 24 minutes 29 seconds east 614.18 feet to an iron pin, found at a northeastern corner of Jerry Winberry as described in Deed Book 684, Page 1585; runs thence along the north line of Jerry Winberry, north 86 degrees 48 minutes 11 seconds west 838.91 feet to an iron pin found at the northwestern corner of Jerry Winberry; runs thence with the west line of Jerry Winberry, south 03 degrees 08 minutes 54 seconds west 58.10 feet; runs thence south 14 degrees 36 minutes 59 seconds west 116.58 feet to the center of DeLoach Creek; runs thence along a new division line through the Franklin James Limited Family Partnership generally following the center of said DeLoach Creek, north 56 degrees 19 minutes 49 seconds west 27.95 feet; runs thence north 76 degrees 26 minutes 26 seconds west 39.39 feet; runs thence north 87 degrees 27 minutes 10 seconds west 120.10 feet; runs thence north 84 degrees 42 minutes 09 seconds west 78.25 feet; runs thence south 76 degrees 25 minutes 46 seconds west 105.67 feet; runs thence north 60 degrees 26 minutes 03 seconds west 137.16 feet; runs thence north 38 degrees 38 minutes 41 seconds east 84.20 feet; runs thence north 09 degrees 10 minutes 48 seconds west 196.32 feet; runs thence north 16 degrees 56 minutes 15 seconds west 107.98 feet; runs thence north 28 degrees 31 minutes 35 seconds east 38.37 feet; runs thence north 59 degrees 31 minutes 39 seconds east 94.88 feet; runs thence north 13 degrees 17 minutes 07 seconds west 59.50 feet; runs thence north 48 degrees 08 minutes 24 seconds west 135.96 feet; runs thence north 40 degrees 02 minutes 21 seconds west 94.63 feet; runs thence north 37 degrees 37 minutes 45 seconds west 88.79 feet; runs thence north 06 degrees 31 minutes 32 seconds west 82.20 feet to the south margin of the aforementioned Ashport Road; runs thence along the said south margin, south 86 degrees 43 minutes 47 seconds east 585.43 feet; runs thence south 87 degrees 08 minutes 32 seconds east 537.59 feet to the beginning of a curve; runs thence along said curve to the right having a radius of 700.00 feet, a chord direction of south 77 degrees 34 minutes 56

seconds east, a chord length of 232.51 feet and an arc length of 233.59 feet; runs thence south 68 degrees 01 minutes 20 seconds east 74.10 feet to the beginning of a curve; runs thence along said curve to the right having a radius of 400.00 feet, a chord direction of south 64 degrees 14 minutes 42 seconds east, a chord length of 52.70 feet and an arc length of 52.74 feet to the point of beginning containing 992724.43 square feet or 22.790 acres of land as surveyed by Surveying Services, Inc., 41 Heritage Square, Jackson, Tennessee 38305 (731-664-0807).

The above-described property being a portion of the Franklin James Limited Family Partnership property as described in Deed Book 651 Page 5 in the Register's Office of Madison County, Tennessee and shown on Tax Map 33 Parcel 3.00 (portion of) in the Assessor's Office of Madison County, Tennessee.

BK/PG:D695/1959-1984

08015131

DEED	
BOOK	
PAGE	
DATE	
TIME	
VALUE	9.99
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	15.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	27.00

STATE OF TENNESSEE, MADISON COUNTY

LINDA WALDON  
REGISTER OF DEEDS