

DECLARATION OF CONDOMINIUM, COVENANTS AND RESTRICTIONS

FOR

THE CHEROKEE BAY CONDOMINIUMS

APPENDIX A

POOL HOA RULES

1. Pool hours are sunrise to sunset.
2. No glass objects including beverages are allowed anywhere in the pool area.
3. No food or beverages are allowed in the pool at any time.
4. No running in the pool area.
5. No diving in the pool.
6. Music will be allowed in a reasonable manner (no loud music).
7. Children 14 years or younger must be accompanied by an adult.
8. Infants must wear swim diapers.
9. All trash must be picked up and disposed of prior to leaving the pool.
10. There is no lifeguard, and the pool is not supervised. Residents and renters are responsible for their own safety as well as the safety of their guests. Persons using the pool hold harmless the management and owners from all liabilities and action of whatsoever nature by any guest or guests of a resident including renters.
11. There will be no more than 4 guests at the pool area in addition to that condo resident.
12. No animals are allowed in the pool or pool area.
13. Pool gate is to remain locked after entering the pool.
14. The cost of repairs for any damaged equipment falls to the unit owner, whether by themselves, tenants or guests.

# DECLARATION OF CONDOMINIUM, COVENANTS AND RESTRICTIONS

FOR

THE CHEROKEE BAY CONDOMINIUMS

APPENDIX B

## BOAT DOCK HOA RULES

1. Boat slips are available only to owners of Cherokee Bay condominiums and may be purchased or rented. Boat slips may only be used by owners, guests of owners or renters of condominiums during their stay. Owners are responsible for following all Boat Dock rules including their guests or persons renting their condominiums.
2. Mooring of boat/watercraft is not allowed.
3. No grilling or fire of any kind is permitted on the dock or on a boat/watercraft while the boat/watercraft is moored at the dock.
4. No fireworks or other explosives are ever permitted on the dock.
5. No swimming is allowed in the area of the docks nor is jumping from the dock or dock walkway into the water is permitted. Use of life jackets is recommended for infants, children and non-swimmers while on the dock.
6. An adult must be present when persons under 16 years of age are using the dock.
7. Gasoline/fuel may never be stored on the dock at any time.
8. No waste cans, paper, debris or other refuse are to be left at the dock or dock area or thrown into the lake. Removal of trash from the premises is the responsibility of the boat/watercraft owner or guest.
9. Members and guests and/or pets are not permitted to live aboard any boat/watercraft or to sleep overnight while a vessel is moored or in the immediate area of the dock.
10. Boat/watercraft owners and operators should minimize speed and wake while entering and exiting the dock area so as to do no harm to the docks or other boats/watercrafts.
11. Dock users shall not create visual or noise nuisances. Loud parties, inappropriate conduct or other disturbances are not permitted.
12. Fish cleaning stations may be used by owners and operators and will be cleaned off immediately after each use.
13. Owners will be required to pay one month's HOA fee annually for the maintenance and upkeep of the docks and boat slips.

DECLARATION OF CONDOMINIUM, COVENANTS AND RESTRICTIONS

FOR

THE CHEROKEE BAY CONDOMINIUMS

APPENDIX C

DOMESTIC ANIMALS HOA RULES

1. Domestic Animals are allowed on Cherokee Bay premises providing they are inside animals and not left outside, chained or otherwise for a long period of time. Aggressive dogs will not be allowed on any of the premises. Aggressive is to include loud barking, nipping or biting and will result in the dog being removed.
2. Consistent with Jefferson City, Cherokee Bay will require all dogs to be leashed while walking on the premises. The one exception to this is while they are in any "dog park" constructed by Cherokee Bay.
3. Unit owners, guests of unit owners or renters of units are required to pick up feces immediately while walking their dogs. Immediate cleanup of feces is also required around their condo units. Violations of the above will result in fines.
4. Domestic Animals are not allowed in the Recreation Center, Fitness Center, or Pool area. They are not allowed in the Dock/Boat slip area except for immediately putting the animal on the Boat.

DECLARATION OF CONDOMINIUM, COVENANTS AND RESTRICTIONS

FOR

THE CHEROKEE BAY CONDOMINIUMS

APPENDIX D

FITNESS CENTER HOA RULES

1. The Fitness Center is available for residents, guests and tenants living or renting the condos during their stay. Outside guests, living elsewhere are not allowed to use the Fitness Center.
2. The Fitness Center will be available for use 24 hours per day/ 7days a week.
3. Food or gum is not allowed in the Fitness Center at any time.
4. Residents, guests and tenants are required to pick up after themselves and discard any trash after each workout.
5. All cardio and exercise equipment must be wiped down after each use. Paper towels and disinfecting spray is available for use.
6. Report any unsafe exercise equipment to the HOA.
7. Use of the Fitness Center is at your own risk. Management and the HOA is not responsible for any injury that may occur to individuals participating in any exercise or activity. Participation in exercise is on a voluntary basis.
8. Smoking or tobacco is not permitted in the Fitness Center.
9. Beverages consumed during workout must be in a non-glass container with a lid.
10. Proper gym attire and gym shoes are required in the Fitness Center.



DECLARATION OF CONDOMINIUM, COVENANTS AND RESTRICTIONS

FOR

THE CHEROKEE BAY CONDOMINIUMS

APPENDIX E

RECREATION CENTER HOA RULES

1. The Recreation Facilities have been provided for the mutual enjoyment of the owners, residents, tenants and their guests. All Recreation areas are unsupervised and owners, tenants, residents and guests use them at their own risk.
2. Children under the age of 16 must be accompanied by and under the supervision and responsibility of a resident 16 or older.
3. Smoking is not allowed in any of the Recreation facilities including the outdoor deck.
4. Pets are not allowed inside any of the Recreation facilities at any time.
5. The Recreation Facilities may not be used for political, business or commercial gatherings other than approved activities for residents.
6. Recreation Facilities may be reserved by residents for special functions by contacting the HOA office and completing the required form as well as agreeing to the terms and conditions.
7. All residents and guests are required to clean up after using the facilities and remove all trash from the facilities.
8. Recreation hours of use will be 9:00 am to 10:pm daily.

DECLARATION OF CONDOMINIUM, COVENANTS AND RESTRICTIONS

FOR

THE CHEROKEE BAY CONDOMINIUMS

APPENDIX F

VIOLATIONS AND FINES - HOA RULES

In accordance with Articles 402(f) of Declaration of Condominium Covenants and Restrictions, fines will be assessed for all violations as follows:

**Rental Violations and Fines;**

Condo owners will be allowed one renter per calendar week running from Saturday to Saturday. Condo owners are responsible for their renters adhering to all of the HOA Covenants and Restrictions. Any violation(s) of such will result in the owner being fined \$100 plus damages, clean up, etc. as well as any collection costs.

**Domestic Pets as described in Article 402(j) and any other HOA violations;**

\$50 for the first violation.

\$100 for the second violation

\$250 for the third violation and any violation thereafter

All fines must be paid and received by the HOA within 30 days of notification. If HOA violation fees are not received timely, there will be a \$25 surcharge. If fines and surcharges are not received within 60 days of notification, a lien will be placed on their property. In addition, access through the gate will be removed and violators will have to park before the gate.

Interest on all liens will accrue at an interest rate of 12%

**AMENDED AND RESTATED DECLARATION, COVENANTS AND  
RESTRICTIONS FOR THE CHEROKEE BAY DEVELOPMENT  
(ESTABLISHMENT OF A PLANNED UNIT DEVELOPMENT)**

This Amended and Restated Declaration, Covenants and Restrictions for the Cherokee Bay Development (hereinafter the "Declaration") is made and executed in Jefferson County, Tennessee, by Cherokee Bay, LLC (hereinafter the "Declarant") for itself, its successors, grantees, and assigns, pursuant to the provisions of the Tennessee Condominium Act of 2008, Tenn. Code Ann. Sections §§66-27-201, et seq. (the "Act") for the establishment of Cherokee Bay as a Planned Unit Development.

**WHEREAS**, Declarant is the owner of certain real property located in Jefferson County, Tennessee, more particularly described in Exhibit A of this Declaration.

**WHEREAS**, the Declarant previously submitted and registered the "Declaration of Condominium, Covenants and Restrictions for The Cherokee Bay Condominiums" in connection with the property, of record in Book 1682, Page 229 in the Register of Deeds Office for Jefferson County, Tennessee, for the purposes of establishing a condominium regime under the Tennessee Condominium Act of 2008; and

**WHEREAS**, the Declarant has determined that for purposes of development and for the benefit for future owners, the development should be established as a *Planned Unit Development*, as provided for under the Horizontal Property Act of the State of Tennessee in TCA§66-27-103(b); and

**WHEREAS**, the Declarant desires and intends by filing this instrument in conformity with the Act to establish the regime as a Planned Unit Development and this instrument shall be deemed to wholly amend, supplant and supersede the prior recorded Declaration at Book 1682, Page 229 in the Jefferson County, Tennessee Register of Deeds Office;

**NOW, THEREFORE**, Declarant does hereby publish and declare that all of the Property referenced above and all Private Elements to be sold shall be held and conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations, and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of such Property and the division thereof into residential Units known as *Cherokee Bay* and shall be deemed to run with the Property and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the Development, their grantees, successors, heirs, executors, administrators, devisees and assigns as a Planned Unit Development, fully replacing and supplanting the "Declaration of Condominium, Covenants and Restrictions for The Cherokee Bay Condominiums".

## **ARTICLE 1**

### **DEFINITIONS**

1.01 "Act" means the Tennessee Condominium Act of 2008 codified at Tenn. Code Ann. §§ 66-27-201 et seq., specifically Tenn. Code Ann. §§ 66-27-103(b) and any such other provisions as are applicable to Planned Unit Developments.

1.02 "Association" shall mean the Cherokee Bay Owners Association, a Tennessee nonprofit corporation of all Owners of Units in the Project, the nonprofit corporate Charter of which is attached hereto as Exhibit B, but whose name has been changed to the "Cherokee Bay Owners Association".

1.03 "Buildings", unless the context indicates otherwise, means structures, including residential structures, built within the Property.

1.04 "Bylaws" means the Bylaws for the administration of the Project attached hereto as Exhibit C.

1.05 "Co-Owner," "Owner" or "Unit Owner" means a Person who owns a Unit (private element) in the Project. To the extent that a Unit is owned by more than one (1) Person, each such Person shall (a) be fully responsible for and shall comply with each and all of the terms and provisions of this Declaration, the Association Charter and Bylaws and the rules and regulations adopted by the Association from time to time, and (b) be subject in the exercise of voting rights to those provisions of the Association Bylaws specifically dealing with the voting rights of a Person who own one or more Units in a legal tenancy with one or more other Persons. To the extent that any Unit is occupied by any Person other than the Owner(s) thereof, such Occupant shall use and occupy such Unit subject to all of the terms and restrictions of this Declaration, the Bylaws and the rules and regulations established by the Association from time to time.

1.06 "Common Elements" means the Common Elements of the Project as defined in Section 3.04 hereof.

1.07 "Declarant" means Cherokee Bay, LLC, its successors or assigns.

1.08 "Exhibits" means all papers attached to and by reference incorporated into this Declaration.

1.09 "Limited Common Elements" means that portion of the Common Elements for the exclusive use of less than all of the Units and as defined in the Act. It may include elements or easements for one Unit or one or more contiguous Units.

1.10 "Majority of Co-Owners" means Owners which in the aggregate own more than fifty percent (50%) of the Units within the Development.

1.11 "Mortgage" shall mean a deed of trust, mortgage or similar instrument whereby the Owner(s) of a Unit in the Development shall grant a security interest in such Unit.

1.12 "Mortgagee" shall mean the beneficiary or holder of a Mortgage.

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

1.14 "Phase" or "Phases" means the Phases of the Development as hereafter described.

1.15 "Private Element" refers to the Units within the Development, including the improvements thereon, as well as the plot of real property on which they are situated.

1.16 "Project" means "Cherokee Bay Development" which is the Planned Unit Development regime established pursuant to this instrument and the Act.

1.17 "Unit" or "Units" shall have the meaning as set forth in Article 3 below. Unless the context indicates otherwise, Unit shall be synonymous with "Private Element".

## **ARTICLE 2**

### **DESCRIPTION OF THE DEVELOPMENT PROPERTY**

2.01 Description of the Development Property. The Development Property is identified and described in Exhibit A attached hereto.

2.02 Division into Units, Common Elements and Phases. The Development Property and the improvements shall be developed as follows:

a) The Units shall be constructed and finished in phases. It is anticipated that the first phase will consist of Twenty-Five (25) Units and it is anticipated that the Development will consist of a total of Ninety-One (91) Units, although the Declarant reserves the unilateral right to extend or reduce the number of Units throughout the Development; and

b) The general anticipated layout of the Units, roadways and Common Elements is as depicted on the revised layout plan attached hereto as Exhibit D. Provided, however, the Declarant reserves the unilateral right to amend the Development plan in whole or in part; and

c) As further described below, the Common Elements, including amenities, shall be held by the Association for the use and benefit of Unit Owners and their guests.



**ARTICLE 3**  
**DESCRIPTION OF UNITS, COMMON ELEMENTS**  
**AND EXCLUDED PROPERTY**

3.01 Individual Units. As set forth in Article 2 above, the Project ("Project") is expected to initially contain Twenty-Nine (25) residential Units with an expected total of Ninety-One (91) residential Units at the conclusion of all phases, all as generally depicted in Exhibit D. The Units will be constructed in clusters, with adjoining common walls, roofs and exterior elements, as well as Limited Common Elements.

3.02 Description of Units. The Units are deemed Private Elements as defined under the Act and include the ground upon which the improvement is constructed and any additional ground surrounding the improvements if so described and conveyed in the deed to the Unit Owner.

3.03 Appurtenances to Units. The Owner of each Unit shall have certain rights and obligations which are appurtenant to such Owner's Unit, including, but not limited to, the following:

- a) Each Unit Owner shall have a right of use, enjoyment and easement over and upon the Common Elements in the Development, which is appurtenant to ownership of a Unit;
- b) Each Unit Owner shall be liable for such Owner's share of the Common Expenses as provided in Article 6 of this Declaration; and
- c) Each Unit Owner shall be a member of the Association and as such shall be entitled to vote on all matters upon which voting is required or permitted, such voting rights to be exercised pursuant to the terms of this Declaration, the Bylaws and the Act. There shall be one vote per Unit.

3.04 Description of Common Elements. The Common Elements shall consist of the Development Property and improvements thereon other than the Units/Private Elements and any other excluded property as provided for herein. The Common Elements shall include, without limitation, the following:

- a) Roadways (not dedicated to a public entity), parking areas, sidewalks, greenspaces, grounds, amenities, walkways and other land or facilities not constituting Private Elements;
- b) All storage areas and other facilities to be used by the Owners in common;
- c) All common installations for services, utilities, wiring, pipes, ducts, cables and conduits, which are not dedicated and intended for individual use or service or individual Units, but rather for common and community benefit;
- d) All tanks, motors, generators, pumps, sewer pipes, and control equipment necessary and intended for common use and community benefit, whether located in Common Elements or in any Unit(s).

3.05 Common Element Ownership. The Common Elements shall be controlled, managed, maintained and preserved for and by the Association, whether or not the Association is the titled owner thereto by virtue of a separate deed of conveyance. The Declarant acknowledges that this instrument may be treated as a muniment of title and indicia of title in and to the Association for all intents and purposes herein as to the Common Elements once development has been *completed* and all Common Elements fully identified.

3.06 Legal Estates Permitted. Each Unit may be held and owned by more than one Person as tenants in common, as tenants by the entirety or by any other real estate tenancy relationship recognized under the laws of the State of Tennessee.

3.07 Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element, whether by reason of any deviation from the plats or plans in the construction, repair, renovation, restoration or replacements of any improvement, or by reason of the settling or shifting of any Building, a valid easement for such encroachment shall exist.

3.08 Declarant Rights. Until such time as the Project is completed, the Declarant reserves the absolute right to utilize any and all portions of the Property not conveyed as Private Elements for development purposes and retain title to portions of the Property for Declarant purposes, which portions shall not be deemed Common Elements or Private Elements, but rather Declarant retained property. The Declarant may, in its discretion, offer such retained property or amenities thereon to Unit Owners and their guests under such terms and provisions as Declarant determines.

#### **ARTICLE 4**

#### **PERMITTED USES OF UNITS AND COMMON ELEMENTS**

#### **RESTRICTIONS ON USE**

4.01 Use. No Unit shall be used for any purpose other than single family residential use. Provided, however, overnight vacation rental of Units is contemplated and allowed and shall not be deemed in violation of this residential use provision. Provided, however, the Declarant initially, and the Association thereafter, may adopt rules, regulations and restrictions for such use, including the maximum number of occupants and maximum number of rentals during a segment of time.

4.02 Restrictions on Use. Without limiting the generality of Section 4.01 hereof, each Unit Owner shall, with respect to such Owner's Unit and the Common Elements, be subject to and shall keep and comply with, the following restrictions:

- a) Division or Subdivision of the Units. No Unit or Units may be divided or subdivided into a smaller Unit.
- b) Alterations by Unit Owners. No Unit(s), Common Elements or any part of the Property may be altered in appearance or structure, except as provided in Article 8 hereof.

All improvements made in or to any Unit which are visible from outside said Unit or which may affect common elements or other Units in any way shall be approved in writing in advance by the Association. This provision does not prohibit a unit owner from altering the interior finishes of the Unit.

c) Signage or Ornamentation. No signage, accessories or ornamentation shall be placed on the exterior of any Unit or the Buildings or Common Elements unless approved by the Declarant initially, and the Association thereafter. It is the intent of this Declaration that the exterior appearance of the Buildings and the Units remain uniform and not to be altered in any respect from the original design and features without the expressed permission of the Declarant or Association. The Declarant or Association may utilize signs/numbers identifying the individual Units and such other signage reasonably necessary for identification, safety, direction or other purposes throughout the Development. Additionally, the Declarant initially, and the Association thereafter, may erect and maintain signage identifying the Property.

d) Nuisances. No nuisance shall be maintained in or upon any Unit or the Common Elements, nor any use or practice which is the source of annoyance or which interferes with the peaceful possession and proper use of the Units or Common Elements by the Unit Owners, their lessees or other occupants of Units in compliance with this Declaration. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor any fire hazard allowed to exist.

e) Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of any Unit or the Common Elements; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

f) Rules and Regulations. In addition to the rules and regulations contained in this Declaration and in the Bylaws, reasonable rules and regulations concerning the use of the Property and Common Elements may be adopted and amended from time to time by the Declarant and the Association thereafter. Copies of such rules and regulations and amendments thereto shall be furnished to all Unit Owners and occupants, and such rules and regulations shall be of the same force and effect as the provisions of this Declaration and the Bylaws. The Declarant initially, and the Association thereafter, is authorized to impose fines or other penalties for the violation of this Declaration, the Bylaws or the published Rules and Regulations. The Rules and Regulations may pertain to, but not be limited to, use of amenities, boat docks or slips, domestic animals and pets, recreation and fitness amenities and include a schedule of fines or other penalties for violations.

g) Obstruction and Waste of Common Elements. There shall be no obstruction of the Common Elements. Except in the case of designated storage areas nothing shall be stored in the Common Elements by any Unit Owner or occupant without the prior written consent of Declarant or the Association. No waste will be committed of the Common Elements.

h) Roadways and Parking. All roadways within the Development are private and to be deemed part of the Common Elements. Unless otherwise provided herein or amended, any driveways and parking dedicated and appurtenant to specific Units shall be Limited Common Elements. The Development is intended to be gated, with the Declarant initially, and thereafter the Association, having the right to adopt rules, regulations and provisions regarding the gate and access. No Unit Owner, rental guest, invitee or other person shall be allowed to store or keep in

any parking space, parking area, drive or entranceway any junk vehicle, inoperative vehicle, recreational vehicle, trailer, boat, commercial vehicle or any other vehicle or apparatus of any kind other than traditional passenger motor vehicles intended for daily personal use.

i) Insurance. No Unit Owner or occupant shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in the cancellation of or increase in the premium(s) relative to any insurance maintained by the Association with respect to the Project.

j) Animals and Pets. No farm, exotic or other non-domesticated animals shall be allowed in or upon Units or Common Elements at any time. The Declarant initially, and thereafter the Association, may adopt such Rules and Regulations as they deem appropriate for the allowance of domestic pets, including, but not limited to, a limit on the number of pets per Unit, the size, type and breed of such pets. Provided, further, nothing herein nor in such Rules and Regulations shall be deemed to be in violation of the Americans With Disabilities Act or other valid governmental or municipal provisions related to service animals.

k) Fencing, Outbuildings or Other Structures. No outbuildings or structures of any kind or any fencing shall be erected, allowed or permitted unless given approval and consent by the Declarant or the Association as elsewhere provided herein.

l) Fires and Grills. No outdoor fires shall be permitted. No use of charcoal grills or woodburning grills shall be permitted. Gas or electric grill use is permitted, provided it is utilized on the lower (ground level) of a Unit.

## **ARTICLE 5 ADMINISTRATION**

5.01 Association Charter and Bylaws. Any person who is an Owner of a Unit shall automatically become a member of the Association subject to the provisions of this Declaration and the Association Charter and Bylaws. Such membership shall automatically terminate whenever a Unit Owner ceases to own at least one (1) Unit in the Project. The administration of the Project and the regime established pursuant to this Declaration shall be that of the Association in accordance with the Act, this Declaration and the Association Charter and Bylaws, subject to the provisions of 5.03 below.

5.02 Association to Serve as Attorney-in-Fact for Unit Owners. The Association shall be the full authorized legal representative, agent, and attorney-in-fact of all of the Unit Owners in all actions taken relative to the Project. Insurance policies, bonds, agreements and commitments of any and every nature having a legal significance, and the acceptance of benefits, property interests and other things having legal significances, when undertaken or accepted by the Association shall have the same effect as if actually done, executed or accepted by each and every Unit Owner. In order to carry out the intentions of this Section 5.02, each Unit Owner, by accepting an instrument transferring to such Unit Owner an interest in one or more Units and the Common Elements, appoints the Association as attorney-in-fact to act on behalf of such Unit Owner with regard to the foregoing matters. The grant of the power of attorney to the Association pursuant to this Section 5.02 is coupled with an interest, is irrevocable and shall survive the sale, transfer, assignment or other conveyance of a Unit Owner's interest in a Unit.

5.03 Declarant and Association Authority. The administration and enforcement authority for the Project as contemplated herein shall be exercised by the Declarant until 120 days after conveyance of 75% of the Units to Owners other than the Declarant or five (5) years after the conveyance of the first Unit in the Development to a purchaser other than the Declarant. This preserved authority with the Declarant includes, but is not limited to, the appointment of the Board of Directors of the Association, approval of the budget and assessments and other authority and duties set forth in this Declaration reserved to Declarant, unless expressly indicated otherwise. Thereafter, the Unit Owners shall hold an organizational meeting of the membership to elect a Board of Directors and undertake such other business of the Association as contemplated herein and the Charter and the Bylaws of the Association and shall exercise the administrative and enforcement authority contemplated herein and within the Bylaws and Charter of the Association. The foregoing provisions and the general control and authority of the Declarant are adopted pursuant to Section 66-27-403(c) of the Act.

5.04 Roster of Unit Owners and Mortgagees.

a) Unit Owners. The Association shall maintain a roster of Unit Owners and occupants from the evidence of change of ownership or occupancy furnished to the Association from time to time (the "Unit Owner Roster"). In order to facilitate the establishment and maintenance of the Unit Owner Roster, each Unit Owner, at the time such Owner acquires, conveys or leases any interest in any one or more Units in the Project, shall within ten (10) days from and after the happening of such event give notice in writing to the Association of such acquisition, conveyance or lease. Only those Unit Owners with respect to which the Association has received the notice called for herein shall be placed upon the Unit Owner Roster. The Unit Owner Roster shall be utilized by the Association for the purpose of giving notice as required hereunder and under and pursuant to the Bylaws, including for purposes of voting upon all matters upon which Unit Owner voting is required or permitted under this Declaration or under the Bylaws. The Association shall have no liability or obligation to any Unit Owner for failure to give notice to such Owner, or the failure of such Owner to receive notice, to the extent that such Owner has not given the notice required pursuant to this Paragraph (a) of this Section 5.5.

b) Mortgagees. The Association shall maintain a roster which shall contain the name and address of each Mortgagee of a Unit which notice is given to the Association as required by this Declaration.

5.05 Indemnity. The Association shall indemnify and hold harmless its Board of Directors, officers and committee members to the fullest extent as provided by law for any liability, losses, damages, costs or expenses, specifically including, but not limited to, attorney's fees and litigation expenses, arising out of or in connection with their respective duties for the Association under this Declaration, the Bylaws, Charter or otherwise, provided that such action or actions were taken in good faith and not deemed willful or malicious conduct of the acting party. It is the intent of this provision to provide full indemnity to all such persons acting for and on behalf of the Association in all elected, appointed or designated roles for and on behalf of the Association in the conduct of its affairs.



## **ARTICLE 6**

### **ASSESSMENTS FOR COMMON EXPENSES**

6.01 Definition of Common Expenses. Common Expenses shall include, but shall not be limited to, the following:

- a) Expenses of management and administration of the Project, including, without limitation, the fees to and reimbursement of expenses incurred by the Association.
- b) All operating expenses relative to the Project which are not paid by the individual Unit Owners.
- c) All costs and expenses for real property taxes on the Common Elements, insurance required to be maintained by the Association, repairs, maintenance or replacements of any Unit or the Common Elements for which the Association is responsible.
- d) The costs of utilities, including water, sewer, garbage, internet, phone or cable, etc. may be included within the assessments as may be determined by the Declarant and then the Association.
- e) Expenses declared or designated as Common Expenses by the provisions of this Declaration or the Charter and Bylaws.

6.02 Liability for Common Expenses. The Common Expenses shall be apportioned evenly among the Units/Unit Owners, unless otherwise provided in this Declaration, the Bylaws, Charter or Rules and Regulations of the Association. It is the intent of this provision that the Common Expenses shall be divided equally among the individual Units. For example, if there are 91 Units, each Unit shall be apportioned a 1/91 assessment. Provided, however, nothing herein is intended to prohibit or limit the Association from charging directly to a Unit Owner an expense, cost, fine or charge resulting from the Unit Owner's use, lack of maintenance, negligence, willful misconduct or other action or condition attributable solely to that Unit/Unit Owner, not determined by the Association to constitute a Common Expense.

#### 6.03 Assessments for Common Expenses.

a) Determination of Common Expense. The Association shall prepare a budget for the operation, management and administration of the Project reflecting the expenses expected to be incurred and necessary on an annual basis, as well as reasonable reserves. The assessment to be charged to each Unit shall be determined accordingly, with each Unit/Unit Owner responsible for a pro-rata share based upon the budgeted annual expense and reserves. The budget and corresponding assessment may be determined by the Declarant under Section 5.03 above until such time as the Unit Owners hold a membership meeting and adopt a different budget and corresponding assessment as the members deem appropriate and necessary. The Association may determine assessment due dates, installment increments and such other measures as may be necessary for the imposition and collection of assessments.

b) Surplus or Deficiency in Estimated Annual Common Expenses. Any surplus or deficiency in the Estimated Annual Common Expenses shall be governed pursuant to the following provisions:

1) Any surplus in the amount received each year by the Association from the Unit Owners as payment of the estimated annual common expenses over and above the amount of Common Expenses actually incurred shall be held by the Association as reserves.

2) Any deficiency in the amount received each year by the Association from the Unit Owners as payment of the estimated annual common expenses below the actual Common Expenses incurred shall be paid by the Unit Owners on a pro-rata basis upon notice and demand by the Association as an additional assessment.

6.04 Failure to Assess. Failure to make assessments shall not prejudice the right to make assessments at any later date, nor shall it be deemed a waiver, modification or release of the Unit Owners from their obligations under this Article 6.

6.05 No Self-Exemption from Assessments. No Unit Owner shall be exempt from the obligation to contribute toward the Common Expenses by waiver of the use or enjoyment of Common Elements or by abandonment of a Unit or by any other means.

6.06 Lien; Default and Foreclosure. All sums assessed against any Unit Owner for the share of Common Expenses chargeable to that Owner's Unit including interest at the maximum legal rate beginning ten (10) days after the due date, shall be secured by a lien on the Unit superior to all other liens and encumbrances except only recorded Mortgages and liens for taxes and special assessments by public authorities.

6.07 Transfers are Subject to Lien. All transfers of a Unit, except transfers made in connection with a foreclosure by any Mortgagee, shall be subject to the lien securing unpaid assessments.

6.08 Liability Independent of Lien. Suits to recover judgment for money due on an assessment or assessments shall be maintainable without, or in aid of, foreclosing the lien securing the assessment. Unit Owners shall be personally obligated for all assessments, interest, fines and all costs of collection, including reasonable attorney's fees.

## **ARTICLE 7 MORTGAGES**

7.01 Unit Owners May Mortgage Units. Each Unit Owner shall have the right, from time to time, to Mortgage such Owner's Unit:

a) The Unit Owner or Mortgagee shall promptly notify the Association of the name and address of the Mortgagee, which shall be placed upon the Mortgage roster.

b) The Mortgage shall be subject to all of the terms, conditions and provisions of this Declaration and the Bylaws, except that the lien securing assessments for Common Expenses established pursuant to Article 6 hereof shall be subject and subordinate to the liens securing such Mortgage, except for those assessments deemed a priority or prime to the Mortgage as provided in the Act.

c) Any Mortgage granted by a Unit Owner shall relate only to such Owner's Unit and undivided interest in the Common Elements, and any foreclosure of such Mortgage, sale thereunder, or sale or deed to any Person (including Mortgagee) in lieu of foreclosure shall vest in the purchaser or transferee only the right, title and interest of the Unit Owner in such Unit and share of the Common Elements, subject to the terms and provisions hereof and the Bylaws.

d) The Mortgagee shall promptly notify the Association of any and all events of default under the Mortgage.

e) Nothing provided herein shall prohibit the Association from determining that a Mortgage, deed of trust or lien against a Unit is unlawful, invalid or imposed as a subterfuge, whereupon the Association's lien rights and other rights set forth herein shall not be deemed affected or impaired in any way by such unlawful or invalid Mortgage, deed of trust or lien.

7.02 Acts Prohibited Without Consent of Mortgagees. Except to the extent provided by this Declaration, unless each Mortgagee of a Unit shall give its prior written approval, the Association shall not be entitled to:

a) Abandon or terminate the regime hereby established unless otherwise provided herein; or

b) By act or omission, seek to abandon, partition, subdivide, sell or transfer the Common Elements; provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements; the transfer of Common Elements to accommodate "as built" locations or encroachments of Units; or, other encumbrances deemed prudent or necessary for the Project, shall not be deemed a transfer within the meaning of this paragraph.

## **ARTICLE 8**

### **MAINTENANCE, ALTERATIONS AND IMPROVEMENTS**

#### **8.01 Units – By Unit Owners.**

a) Repairs and Maintenance. Except as provided in Section 8.02 hereafter, all repairs, maintenance and replacements which are or become necessary with respect to the Units, the Limited Common Elements appurtenant to a Unit or any devise or equipment dedicated for a Unit, e.g. septic pump, whether in the Private Element or Common Area, shall be performed by the Unit Owner(s), who shall bear all costs and expenses associated with such maintenance, repair and replacement. The Declarant initially, and the Association thereafter, shall be entitled to require Unit Owners to utilize contractors for such work approved by the Declarant or the Association, except to the extent such work is purely cosmetic in nature. It is the intent of this provision to ensure that any such improvements and repairs are performed in a workmanlike manner to maintain the integrity of the Units and Buildings. In the event that any Unit Owner shall fail to perform all required repairs, maintenance and replacements with respect to such Owner's Unit(s), the Association shall notify the Owner in writing of the need to make such repairs, perform such maintenance or make such replacements, and the Unit Owner shall have

thirty (30) days after receipt of such notice to effect such repairs, maintenance or replacements, or in the event that the same cannot be completed within said thirty (30) day period, to commence within said thirty (30) day period and diligently prosecute to completion, such repairs, maintenance or replacements. In the event that any Unit Owner shall fail to comply with the provisions of this Section 8.01, the Association may make all required repairs, maintenance and replacements to the extent that it deems necessary and using such agents or contractors as it shall deem necessary or appropriate, and all costs and expenses incurred by the Association in such regard shall be assessed against the Unit Owner and shall be paid by the Unit Owner to the Association upon demand. The Association shall place a lien upon any Unit upon which repairs or maintenance have been effected by the Association until the costs and expenses incurred by the Association have been reimbursed by the Unit Owner. Such lien may be recorded, enforced and shall otherwise be in all respects similar to the lien for Common Expenses described in Section 6.06 hereof. Notwithstanding the foregoing, to the extent that any Common Elements are located within the boundaries of any Unit(s), the Unit Owner shall not have any responsibility or obligation to effect any repairs or replacements, or conduct any maintenance relative thereto.

b) Alteration and Improvements. No Unit Owner or occupant shall make any alterations to any Unit, remove any portion thereof, make any additions thereto, or do anything relative to said Unit which would jeopardize the safety or soundness of the Building without first obtaining approval in writing from the Association. All repairs, maintenance, replacements, alterations and improvements made by any Unit Owner to any unit(s) shall be made in a good and workmanlike manner, using materials of equal or comparable quality to those existing in the Unit as constructed. Approved contractors shall be utilized as set forth in Section 8.01(a) above.

c) Liability for Damage Due to Repairs and Maintenance. Any damage to the Common Elements due to an Owner's act or omission shall be the sole and exclusive responsibility of said Owner. Such Owner shall, at the election of the Association, repair any such damage or pay all costs and expenses incurred by the Association in effecting such repairs. In the event that the Association shall elect to repair such damage and to assess the costs thereof against the Owner, the Association shall place a lien upon such Owner's Unit until the costs and expenses incurred by the Association have been reimbursed. Such lien may be recorded, enforced and shall otherwise be in all respects similar to the lien for Common Expenses described in Section 6.06 hereof.

d) Repairs for Which Insurance Proceeds are Available. To the extent that repairs to any Unit are necessitated by an event insured against by the Association as provided in Article 9 hereof, and insurance proceeds have been paid or made available to the Association to affect such repairs, the making of said repairs and application of said insurance proceeds shall be governed by Article 10 hereof.

## 8.02 Units – Common Expense.

a) Repairs and Maintenance. The maintenance, repair and replacement of the following elements of each Unit shall be deemed a Common Expense and the responsibility of the Association:

- 1) all exterior, perimeter and load bearing walls of the Units, not including the finished interior surface of said walls;

- 2) roof and gutters of the Units;
- 3) common installations for services such as common lines, pipes, conduits or connections for utilities or heating and air (but not the appliances themselves), *provided* they are outside of the Units *and* for use and benefit of multiple Units;
- 4) mowing and landscaping, whether or not on the Private Elements. Provided, however, this shall not include maintenance of landscaping, vegetation or flora separately placed by a Unit Owner (if approved in accordance with the Rules and Regulations of the Development).

#### 8.03 Common Elements.

a) Repairs and Maintenance. Except as provided in 8.01(c), the responsibility for effecting all repairs, maintenance and replacement of the Common Elements shall be with the Association, which shall pay all costs and expenses relative thereto, which shall be a Common Expense. The Association shall have the right to budget for and include in the estimated annual common expenses, reserve funds to be held in one or more reserve accounts and used by the Association for repair, maintenance and replacement of the Common Elements.

b) Major Alterations or Improvements. Any major alteration or improvement of the Common Elements or major repair deemed to be in the nature of a capital expense not set forth in the annual budget, shall require approval of the membership. Provided, however, in the event such major expense is in the nature of an emergency repair in which membership approval cannot be timely sought, the Board of the Association is authorized to undertake such repair without membership approval.

8.04 Easement for Repairs. The Association shall have access to each Unit as may be necessary to enable the Association to carry out and fulfill its obligations to maintain and repair the Common Elements and the Units as provided in 8.02 above; provided, however, that non-emergency repairs and maintenance shall be scheduled by the Association at such time or times as are agreeable to the affected Unit Owner(s) or occupant(s).

### **ARTICLE 9 INSURANCE**

9.01 Authority of Association as to Insurance. The Association, as agent for the Association, shall obtain and continuously keep in full force and effect the following types and amounts of insurance.

a) Property Insurance. The Association shall procure a property insurance policy or policies insuring the Common Elements and, if available, all the unfinished, structural and exterior components of the Private Elements against loss or damage by fire or other casualty or peril embraced within an "All Risk" type of coverage for the full replacement cost thereof. Such policy or policies of insurance shall be purchased in the name of the Association and shall name the Association as loss payee.

b) General Liability Insurance. The Association shall purchase general liability insurance insuring against bodily injury, personal injury and property damage occurring in



or upon the Common Elements in such amounts as the Association shall deem appropriate from time to time.

c) Worker's Compensation Insurance. The Association shall purchase worker's compensation insurance as required by law.

d) Other Insurance. The Association shall have the power and authority to purchase such other policies of insurance as it shall deem appropriate, including, but not limited to, Directors and Officers Insurance.

#### 9.02 Insurance to be Maintained by Unit Owners.

a) Property Insurance. Each Unit Owner shall purchase and constantly maintain, at such Owner's sole cost and expense, full and adequate casualty property insurance on the interior finished portions of their Unit and furnishings and contents located in the Unit or located in any area of the Common Elements. Provided, however, in the event the Association is not able to obtain – or in its judgment should no longer secure – the coverage on Private Elements as set forth in 9.01 a) above, the Unit Owner shall be obligated to secure such coverage directly at his or her own expense.

b) General Liability Insurance. Each Unit Owner shall purchase and constantly maintain in full force and effect general liability insurance insuring against bodily injury, personal injury and property damage occurring in or upon such Owner's Unit and Limited Common Elements in such amounts as the Association shall from time to time deem appropriate.

9.03 Payment of Premiums and Proceeds. Premiums for insurance policies maintained by the Association pursuant to this Article 9 shall be a Common Expense assessed against the Unit Owners pursuant to the provisions of Article 6. All proceeds from any property insurance policy or policies maintained by the Association shall be paid to the Association to be applied to affect reconstruction and/or repair pursuant to Article 10 or as otherwise provided in this Declaration. The Association shall have full power and authority to accept and manage such proceeds, to endorse checks therefore in the name of the Association, and to expend or distribute proceeds as provided for herein.

9.04 Insurability. No Unit Owner shall violate, or permit the violation of, any condition imposed by any insurance policy issued in respect of the Development, and shall not do, or permit anything to be done, or keep or permit anything to be kept, in or upon such Owner's Unit or the Common Elements which would result in insurance companies of good standing refusing to insure the Development in amounts reasonably satisfactory to the Association, or result in the cancellation of or the assertion of any defense by the insurer, in whole or in part, to claims under any policy of insurance in force with respect to the Development. Should the manner of use or occupancy by any Unit Owner result in an increase in premiums charged under policies of insurance maintained by the Association pursuant to this Article 9, all of such increase shall be assessed solely against the Owner of the Unit the manner of use and occupancy of which resulted in such increase in premiums.

## **ARTICLE 10**

### **RECONSTRUCTION OR REPAIR AFTER CASUALTY**

10.01 Reconstruction or Repair Due to Casualty. If any part of the Common Elements shall be damaged or destroyed by fire or other casualty, the damaged or destroyed property shall be reconstructed or repaired pursuant to the provisions of this Article 10. All such reconstruction and repair of the Common Elements shall be performed exclusively at the direction of the Association by such person or entities as the Association may select. All costs and expenses incurred by the Association affecting such reconstruction and repairs to the Property, including any funds necessary to cover any deductible amount under any insurance policy, shall be paid and/or reimbursed to the Association pursuant to the following provisions;

a) Insurance Proceeds. The Association shall first apply all available insurance proceeds to the payment of costs to repair the damage to the Property, upon approval by an architect qualified to practice in the State of Tennessee and employed by the Association to supervise the reconstruction and/or repair of the Property; and

b) Assessments. If the casualty is not one insured against pursuant to Article 9, or if the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the Unit Owners who own the damaged Units, and against all Unit Owners in the case of damage to Common Elements, in sufficient amounts to provide funds to pay the estimated costs. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction and repair of their respective Units. Such assessments on account of damage to Common Elements shall be in proportion to the Owner's shares in the Common Elements.

## **ARTICLE 11**

### **MISCELLANEOUS**

11.01 Compliance with Declaration and Bylaws. Each Owner shall comply strictly with the provisions of this Declaration, the Charter, Bylaws, and Rules and Regulations adopted from time to time by the Association and the decisions and resolutions of the Association adopted pursuant hereto. Each Owner agrees that the Association shall be entitled to specific performance of all of the same, and that the Association may in the same or different suit seek damages or other relief. Each Owner is responsible for notifying guests and invitees of the applicable Covenants, Restrictions, Bylaws, Rules and Regulations of the Development. In addition to all action the Declarant or Association may take directly against the violating party, the Unit Owner shall be responsible for the violation of any guest or invitee.

11.02 Personal Property in Common Elements. The Association may acquire and hold for the benefit of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. A transfer of a Unit shall transfer to the transferee the transferor's beneficial interest in such personal property. Each Owner may use such personal property in accordance with the purpose for which it is intended, without hindering or encroaching upon the

lawful rights of the other Owners. Sale of a Unit under foreclosure shall thereby entitle the purchaser to the beneficial interest in the personal property associated with the foreclosed Unit.

11.03 Notices. Notices required or permitted to be given pursuant to this Declaration or the Bylaws may be given in the method best determined to provide convenient and effective notice to the intended recipients. The Board or officers may determine the means of notice, which may include US Mail, facsimile, email or similar electronic means of notice. The Association shall reasonably accommodate a member or other recipient's request for the method of notice.

11.04 Provisions to Comply with Law. It is the intent of this Declaration that the provisions herein comply with controlling law, including the Act and the Tennessee Nonprofit Corporation Act as applicable to the operations of the Association. To the extent any provision herein conflicts with a mandatory requirement of those governing statutes or other laws or regulations, the provision shall be deemed so amended or modified (or stricken) so as to be in compliance with such law. Any such amendment or modification or striking of the provision shall not be deemed to affect the validity of the remainder of this Declaration and the Declaration shall consequently be reasonably construed as so modified.

11.05 Easement for Utilities. The Declarant and then the Association shall have the right and power to grant easements upon, through, across, over and under all or any portion of a Unit and the Common Elements for ingress, egress, installation, replacing repairing or maintaining all utilities, including, but not limited to, water, gas, electricity, telephone, sewers, cable, internet or television.

11.06 Easement for Emergency Access. There shall exist in favor of the Association, and all law enforcement, fireman, ambulance personnel and all similar emergency personnel an easement to enter upon the Property or any portion thereof including individual Units, in case of an emergency in the proper performance of their respective duties.

11.07 Easement for Other Purposes. To the full extent the Declarant or Declarant's successor or assignees retain ownership of any amenity appurtenant to the Development, including, but not limited to, boat docks, boat slips and related services, there is reserved an easement over and across the roadways and common areas of the Development for the Declarant, its successors and assigns for access, use and services of such amenities or facilities. Postal and delivery employees and other bona fide delivery personnel shall have an easement access over the Common Elements for access to the Units in the performance of their duties.

11.08 Enforcement. The Declarant, Association or any Unit Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration, the Charter and Bylaws. Failure to enforce any governing provision shall in no event be deemed a waiver of the right to do so thereafter. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of this Declaration, the Charter, Bylaws or the Rules and Regulations adopted

pursuant thereto, the prevailing party shall be entitled to recover the costs of the proceedings, including a reasonable attorney's fees.

#### **ARTICLE 14 AMENDMENT OF DECLARATION**

Unless the Act requires otherwise, this Declaration may be amended by the Declarant without the consent or approval of Unit Owners or any other persons or entities until 120 days after such time as 75% of the total Units in the Development are sold to purchasers other than the Declarant or five (5) years after the first Unit is sold to a purchaser other than the Declarant, whichever occurs first, unless the Declarant waives its sole right of amendment prior to that time. Thereafter, this Declaration may be amended by the affirmative vote of Owners in good standing representing 67% of the Units. Any Unit Owner delinquent in the payment of assessments or other obligations to the Association and determined to be not in good standing shall not be entitled to vote and his/her Unit(s) shall not be counted to determine the vote. Any vote for an amendment may be cast in person or by proxy at a meeting of the Association, or the proposed amendment may be submitted to the membership by written ballot without such a meeting under such conditions and procedures as the Board, through its officers, deems reasonable.


#### **ARTICLE 15 ATTORNEY'S OPINION**

Pursuant to the provisions of T.C.A. §66-27-103(b), Brian T. Mansfield, an attorney licensed to practice in the State of Tennessee, has executed this Declaration for the sole and exclusive purpose of confirming his opinion that all legal documents required by the Act for the creation of a Planned Unit Development are attached or have been recorded concurrently herewith and, therefore, a Planned Unit Development has been created under the provisions of law.

  
\_\_\_\_\_  
BRIAN T. MANSFIELD

**IN WITNESS WHEREOF**, the Declarant has caused this Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development to be duly signed and adopted this 18<sup>th</sup> day of May, 2023.

CHEROKEE BAY, LLC

  
\_\_\_\_\_  
BY: Paul Tambe  
ITS: Managing Member

STATE OF TENNESSEE )  
COUNTY OF Sevier )

Before me, the undersigned authority, a Notary Public for the said County and State, personally appeared Paul Tambe, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, executed the foregoing instrument for the purpose therein contained and who further states he is the President of Cherokee Bay, LLC and is authorized to sign this document on its behalf.

Witness my hand and seal, at office, this 18<sup>th</sup> day of May, 2023.

Genesis A. Hunt  
Notary Public, MCE: Mar. 28, 2027





# **EXHIBIT A**

**TO**

**OF CONDOMINIUM, COVENANTS AND RESTRICTIONS**

**FOR**

**THE CHEROKEE BAY CONDOMINIUMS**

## **LEGAL DESCRIPTION**

**SITUATED** in the Fourth (4<sup>th</sup>) Civil District of Jefferson County, Tennessee, and being that property conveyed to Cherokee Bay, LLC as set forth in Deed Book 1556, Page 316 and Deed Book 1588, Page 584 of record in the Jefferson County, Tennessee Register of Deeds Office.

**BEING** the same property identified and described in the "Site Development Plan for Cherokee Bay Subdivision" as further depicted on the "Final Subdivision Plat of Cherokee Bay, LLC Providence Field Property Tract 1" of record in Deed Book 1665, Page 638 in the Jefferson County, Tennessee Register of Deeds Office.

State of Tennessee



Department of State

Corporate Filings

312 Rosa L. Parks Avenue

6<sup>th</sup> Floor, William R. Snodgrass Tower

Nashville, TN 37243

# EXHIBIT B

## ARTICLES OF AMENDMENT TO THE CHARTER (Nonprofit)

For Office Use Only

Corporate Control Number (If Known) 001288324

Pursuant to the provisions of section 48-60-105 of *The Tennessee Nonprofit Corporation Act*, the undersigned corporation adopts the following articles of amendment to its charter:

1. Please insert the name of the corporation as it appears of record:

Cherokee Bay Condominium Association

If changing the name, insert the new name on the line below:

Cherokee Bay Owners Association

2. Please check the block that applies:

☒ Amendment is to be effective when filed by the secretary of state.

☐ Amendment is to be effective, \_\_\_\_\_ (month, day, year)

(Not to be later than the 90th day after the date this document is filed.) If neither block is checked, the amendment will be effective at the time of filing.

3. Please insert any changes that apply:

a. Principal address: \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State/County) \_\_\_\_\_ (Zip Code)

b. Registered agent: \_\_\_\_\_

c. Registered address: \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State/County) \_\_\_\_\_ (Zip Code)

d. Other changes: \_\_\_\_\_

4. The corporation is a nonprofit corporation.

5. The manner (if not set forth in the amendment) for implementation of any exchange, reclassification, or cancellation of memberships is as follows:

6. The amendment was duly adopted on April 11, 2023 \_\_\_\_\_ (month, day, year)  
by (please check the block that applies):

☒ The incorporators without member approval, as such was not required.

☐ The board of directors without member approval, as such was not required.

☐ The members

7. Indicate which of the following statements applies by checking the applicable block:

☒ Additional approval for the amendment (as permitted by §48-60-301 of the Tennessee nonprofit corporation act) was not required.

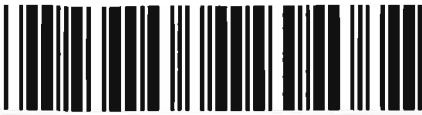
☐ Additional approval for the amendment was required by the charter and was obtained.

INCORPORATOR / ATTORNEY FOR CREDIT  
Signer's Capacity

Signature

4-28-23  
Date

Brian Macfield, att.  
Name of Signer (typed or printed)



001288324

**CHARTER  
NONPROFIT CORPORATION**

SS-4418

**Tre Hargett**  
Secretary of State**Division of Business Services  
Department of State  
State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102  
(615) 741-2286

Filing Fee: \$100.00

For Office Use Only

**-FILED-**

Control # 001288324

The undersigned, acting as incorporator(s) of a nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, adopt the following Articles of Incorporation.

1. The name of the corporation is: Cherokee Bay Condominium Association
2. Name Consent: (Written Consent for Use of Indistinguishable Name)  
☐ This entity name already exists in Tennessee and has received name consent from the existing entity.
3. This company has the additional designation of: None
4. The name and complete address of its initial registered agent and office located in the State of Tennessee is:  
PAUL TAMBE  
775 COMMANCHE DR  
JEFFERSON CITY, TN 37760-5125  
JEFFERSON COUNTY
5. Fiscal Year Close Month: December      Period of Duration: Perpetual
6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:  
(none)      (Not to exceed 90 days)
7. The corporation is not for profit.
8. Please complete all of the following sentences by checking one of the two boxes in each sentence:  
This corporation is a ☐ public benefit corporation / ☒ mutual benefit corporation.  
This corporation is a ☐ religious corporation / ☒ not a religious corporation.  
This corporation will ☒ have members / ☐ not have members.
9. The complete address of its principal office is:  
775 COMMANCHE DR  
JEFFERSON CITY, TN 37760-5125  
JEFFERSON COUNTY

(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)

B1168-7831 02/25/2022 11:18 AM Received by Tennessee Secretary of State Tre Hargett



**CHARTER  
NONPROFIT CORPORATION**

SS-4418



**Tre Hargett**  
Secretary of State

**Division of Business Services  
Department of State  
State of Tennessee**  
312 Rosa L. Parks AVE, 6th FL  
Nashville, TN 37243-1102  
(615) 741-2286

Filing Fee: \$100.00

*For Office Use Only*

**-FILED-**

Control # 001288324

**The name of the corporation is:** Cherokee Bay Condominium Association

**10. The complete mailing address of the entity (if different from the principal office) is:**  
775 COMMANCHE DR  
JEFFERSON CITY, TN 37760-5125

**11. List the name and complete address of each incorporator:**

Title	Name	Business Address	City, State, Zip
Incorporator	Brian T. Mansfield	164 N HENDERSON AVE SUITE A	SEVIERVILLE, TN 37862

**12. School Organization:** (required if the additional designation of "School Organization - Exempt" is entered in section 3.)

- ☐ I certify that pursuant to T.C.A. §49-2-611, this nonprofit corporation is exempt from the \$100 filing fee required by T.C.A. §48-51-303(a)(1).
- ☐ This nonprofit corporation is a "school support organization" as defined in T.C.A. §49-2-603(4)(A).
- ☐ This nonprofit corporation is an educational institution as defined in T.C.A. §48-101-502(b).

**13. Insert here the provisions regarding the distribution of assets upon dissolution:**

In the event of dissolution of the Corporation, the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.

**14. Other Provisions:**

**(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)**

Electronic

Signature

BRIAN T. MANSFIELD

Printed Name

Incorporator

Title/Signer's Capacity

Feb 25, 2022 11:18AM

Date

B1168-7832 02/25/2022 11:18 AM Received by Tennessee Secretary of State Tre Hargett

# **EXHIBIT C**

## **BYLAWS OF CHEROKEE BAY OWNERS ASSOCIATION**

The following Bylaws are adopted by the Cherokee Bay Owners Association, a Tennessee Nonprofit Corporation, replacing and supplementing any prior or other Bylaws:

### **ARTICLE I NOMENCLATURE**

The various terms such as "Unit", "Common Elements", "Members", etc. as used herein are as defined in the Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development (the "Declaration").

Cherokee Bay Owners Association is a not-for-profit corporation incorporated on February 25, 2022, hereinafter referred to as the "Association".

The governing body of the Association is its elected Board of Directors, hereinafter referred to as the "Board" or "Board of Directors" or "Directors".

"Declaration" refers to the recorded Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development.

As used in these Bylaws, the singular shall include the plural and the plural, the singular. Use of the pronouns he, him or them, or their possessive forms shall include their feminine counterparts, without deference to either gender.

### **ARTICLE II APPLICABILITY**

These Bylaws shall apply to all owners, tenants and occupants of any of the Units. Provided, however, if any provision herein conflicts with the provisions of the Declaration, the provisions of the Declaration shall control.

### **ARTICLE III MEMBERSHIP**

Membership and membership voting rights shall be as provided in the Declaration. One vote in the affairs of the Association is granted per Unit. Cumulative voting shall not be permitted. Votes may be cast in person or by proxy. Provided, however, the proxy form shall be as prescribed by the Board of Directors and shall be limited to use for the designated meeting. The proxy shall be delivered to the Secretary of the Association within a reasonable time prior to the meeting for which it is to be used, as prescribed by the Board of Directors.

## **ARTICLE IV**

### **BOARD OF DIRECTORS**

The election for Directors shall be held at the annual meeting of the membership. Meetings shall be conducted in accordance with procedures established by the Board.

A. Number and Qualification. The affairs of the Association shall be conducted by a Board of Directors initially consisting of at least three (3) persons approved by the Declarant. At the first annual meeting of the members after the Declarant control period expires as set forth in the Declaration, the membership shall elect three (3) or five (5) Board members as the membership shall determine is appropriate, which Board members may or may not be Unit owners.

B. Election and Term of Office. Directors shall hold office for a term of two years and until their respective successors have been elected. A Director's term of office shall begin upon election. Provided, however, that two of the initial Directors shall be elected for a one-year term only, with their successors elected for two-year terms so as to stagger the terms of Directors in the succeeding years. Directors may be re-elected for successive terms. The initial Directors appointed by the Declarant shall serve at the will of the Declarant.

C. Vacancies. Vacancies during the period of Declarant control shall be filled by the Declarant. Thereafter, vacancies in the Board during a term shall be filled by vote of a majority of the remaining Directors. A Director chosen by the Board to fill a vacancy will serve until the next annual election and until his elected successor assumes office.

D. Regular Meetings. Regular meetings of the Board shall be held at such time and place as determined in advance by the Directors. However, the Board shall be required to meet at least once during each calendar year. If predetermined meeting dates are changed by a majority of the Directors, at least three days' notice shall be given to all Directors.

E. Special Meetings. Special Meetings of the Directors may be called by the President and must be called by the Secretary at the request of a majority of the Directors. Not less than 48 hours notice of the meeting shall be given personally or by email or telephone, which notice shall state the time, place and purpose of the meeting.

F. Written Consent and Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice. So long as the Declarant control period as provided in the Declaration is in effect, formal and written notice of meetings may be waived and such meetings may be held by written consent, with any and all formalities waived as allowed by law.

G. Quorum and Voting. A quorum at Directors' meetings shall be a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute approval of the Board, except where approval by a greater number of Directors is required by the Restrictive Covenants, these Bylaws or the Articles of Incorporation.

H. Adjourned Meetings. If at any Board meeting less than a quorum is present, those present may adjourn the meeting until a quorum is present. At any reconvened meeting any business which might have been transacted at the meeting originally called may be transacted without further notice.

I. Presiding Officer. The presiding officer at Directors' meetings shall be the President. In the absence of the President, the Vice President shall preside. In the absence of both the President and the Vice President, the Directors present shall designate one of their members to preside.

J. Roberts Rules of Order. In the event a disputed question of procedure arises which is not controlled by these Bylaws, the latest edition of Roberts Rules of Order may be utilized.

K. Fidelity Bonds. The Board may - but is not required to - require that all members of the Board and employees of the Association who handle or are responsible for Association funds, be covered by adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

L. Compensation. No member of the Board shall receive any compensation for acting as a Director.

M. Powers and Duties. Unless otherwise provided in the Declaration or the Charter, the Board shall have the power and duties necessary for the administration of the Association and maintenance of the community including, but shall not be limited to, the following:

(1) Administer and enforce the Declaration, the provisions of the Articles of Incorporation and the Bylaws of the Association.

(2) Adopt and enforce certain rules and regulations in connection with the use of common elements, parking and roadways, amenities, architectural and improvement guidelines for Units and such other rules and regulations deemed necessary or prudent to insure the quality of appearance, harmony, uniformity and upkeep of the Units, the limited common elements and common elements. Such rules and regulations specifically may include the imposition of fines.

(3) Incur such expenses as may be necessary to keep in good repair any common elements and all items of common personal property.

(4) To secure such liability, casualty or other insurance deemed necessary for the benefit of the Association, the Board, the common areas or personalty of the Association.

(5) Make repairs, additions, alterations and improvements to the common elements consistent with maintaining the community as prime residential property.

(6) Adopt an annual budget for the Association; levy an assessment payable by the Owners to meet the expenses and capital expenditures of the Association and appropriate reserves; levy and collect special assessments whenever necessary in order to meet increased operating, maintenance or capital expenses, or in the event of any emergency. Provided, however, such assessments and special assessments shall be established and approved as provided in the Declaration and elsewhere herein.

(7) Suspend the voting rights of an owner and suspend the privilege of use of any amenities by an owner for failure to timely pay assessments or other violations of the governing documents of the Association.

(8) Collect delinquent assessments by suit or otherwise and seek damages from an Owner as provided in the Restrictive Covenants, including attorney's fees and costs.

(9) Borrow funds, if needed, in order to pay for any expenditure required pursuant to the authority granted by the provisions of the Restrictive Covenants and these Bylaws, and execute all instruments evidencing such indebtedness and give security therefor.

(10) Enter into contracts to carry out their duties and powers.

(11) Establish bank accounts, money market accounts or other accounts which may be deemed advisable and prudent for the Association.

(12) Keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements.

(13) Employ personnel as deemed necessary to perform all of the delegable duties of the Association and to obtain professional services in connection therewith.

(14) In general, to do all of those things necessary and reasonable to carry out the administration and operation of the Association.

N. Conflict of Interest. A Director shall promptly disclose to the Board any possibility of a conflict of interest and shall refrain from Board action where such conflict of interest exists. The Board shall make the final determination as to whether there is a conflict of interest.

O. Removal. A Director may be removed upon the affirmative vote of the membership at an annual or special meeting with or without cause. A successor shall be chosen as provided for in Article IV C.

## **ARTICLE V OFFICERS**

A. Designation. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected annually by the Board, and, such other officers as the Board shall elect. Officers shall serve until their successors' terms commence. An officer may hold more than one office, except the offices of President and Secretary may not be held by the same person. Provided, however, the initial officers shall be appointed by the Declarant and shall remain in office until succeeded.

B. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Board and have all general powers and duties usually vested in the office, including the power to appoint committees from the Board or from among the owners. He shall sign all contracts or other



instruments of the Association. Provided, however, expenditures or obligations must be authorized by the Board.

C. Vice President. The vice president shall perform all the functions and duties of the president in the absence of the president or when the president is unable to perform such duties.

D. Secretary. The secretary shall keep all the minutes of the meetings, books and records of the Board and the Association and shall keep up to date at the Association office a complete list of members and their last known addresses.

E. Treasurer. The treasurer shall familiarize himself with the Association books of account and investment schedules and shall submit a treasurer's report to the Board at reasonable intervals. he shall perform other duties incident to the office of Treasurer.

## **ARTICLE VI INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Association shall indemnify every Director and Officer, their personal representatives and heirs against all loss, costs and expenses, including reasonable attorney's fees, to the fullest extent allowed by law incidental to or arising out of performance of their duties.

## **ARTICLE VII MEETING OF MEMBERS**

A. Annual Meeting. A meeting of the members shall be held annually on a date the Board of Directors may prescribe from time to time. The meeting shall be held at the time and place designated by the Board of Directors.

B. Special Meetings. Special meetings of the members may be called at any time by the President with the consent of a majority of the Board of Directors or upon written request of the members who are entitled to vote 33 1/3% of all the votes of the membership.

C. Notice of Meetings. Quorum. Written notice of each meeting of the members shall be given by or at the direction of the Secretary by mailing a copy of such notice, postage prepaid, at least thirty days prior to such meeting to each member at the member's address reflected in the records of the Association or otherwise supplied by the member in writing to the Association for the purpose of notice. Email may be used as an alternative means of notice if the preferred method of the owner. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. The presence at the meeting of members, in person or by proxy, representing 25% of the votes of the membership in good standing shall constitute a quorum for any such meeting, unless otherwise provided for herein.

D. Declarant Control. During the period of Declarant control as set forth in the Declaration, formal and written notice of meetings may be waived and such meetings may be held by written consent, with any and all formalities waived as allowed by law.

**ARTICLE VIII**  
**EVIDENCE OF OWNERSHIP, REGISTRATION OF MAILING ADDRESS**  
**AND**  
**DESIGNATION OF VOTING REPRESENTATIVE**

A. Proof of Ownership. Any person becoming an owner of a Unit shall, upon request, furnish the Association with a copy of the deed or other instrument evidencing such ownership, which copy shall be retained by the Association.

B. Registration of Mailing Address/Designated Voter. The owner(s) of a Unit shall furnish a mailing address or email address(es) to be used by the Association for providing statements, notices, demands and all other communications. Such registered address shall be furnished to the Association within 15 days after transfer of title, or after a change of address.

C. Suspension of Voting Rights. The voting rights appurtenant to any Unit as provided for herein shall be suspended in the event the assessment or other financial obligation imposed upon such Unit as provided for herein or the Declaration is delinquent. The vote suspended shall not be counted in determining whether a quorum exists at any meeting or in determining the required percentage for a vote; nor shall the member be entitled to hold any office in the Association during the term of delinquency. When any outstanding indebtedness is satisfied, the voting rights shall be reinstated. A determination of delinquency shall be made conclusively by the Board of Directors of the Association consistent with these Bylaws and the Declaration.

**ARTICLE IX**  
**WAIVER OF FORMALITY**

The Declaration provides for a period of Declarant control and Declarant control rights in matters of the Association for a period of time. Accordingly, to the extent as may be allowed by the Tennessee Nonprofit Corporation Act and the Tennessee Condominium Act of 2008 or any and all other statutory or regulatory provisions governing Tennessee nonprofit associations and developments, any formalities or strict compliances with the terms of these Bylaws may be waived or dispensed with as a matter of convenience to the Declarant. Provided, however, nothing provided herein is intended to impair the efficacy, use, benefit and governance provided for under these Bylaws beyond the Declarant control period.

**ARTICLE X**  
**AMENDMENTS**

These Bylaws may be amended at a regular or special meeting of the members by an affirmative vote of no less than 60% of the votes cast, in person or by proxy, presuming a quorum is present; provided, however, that any proposed amendment to these Bylaws shall be submitted to the members in the notice of the meeting as provided for herein, specifically setting forth the proposed amended language and referencing the provisions of the existing Bylaws to be affected thereby. However, these Bylaws may be amended or replaced in their entirety at the first annual meeting of the membership after the relinquishment of Declarant control by merely a *majority vote* (not 60%), with the only notice requirement being that Bylaws will be considered and approved at the first annual meeting. Provided, further, that so long as the Declarant is within the Declarant

control period as provided for in the Declaration, Declarant may amend, in whole or in part, these Bylaws in its sole discretion.

## **ARTICLE XI CERTIFICATION**

The undersigned member and officer of the Board of Directors of the Cherokee Bay Owners Association does hereby certify that the foregoing Bylaws constitute the amended Bylaws of said Association and were duly adopted on the 18 day of May, 2022.

**IN WITNESS WHEREOF**, we have hereunto subscribed our names, this 18 day of May, 2023.

Cherokee Bay Owners Association



---

Board Member/Attesting Officer

**FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION,  
COVENANTS AND RESTRICTIONS  
FOR THE CHEROKEE BAY DEVELOPMENT**

The Declarant, pursuant to Article 14. thereof, adopts and submits the following amendments to the Amended and Restated Declaration, Covenants and Restrictions for the Cherokee Bay Development of record in Book 1755, Page 196 in the Jefferson County, Tennessee Register of Deeds Office.

1. **ARTICLE 3., DESCRIPTION OF UNITS, COMMON ELEMENTS AND EXCLUDED PROPERTY**, Section 3.01, Individual Units, is *deleted* in its entirety and supplanted with the following:

3.01 Individual Units. As set forth in Article 2 above, the Project ("Project") is expected to initially contain Twenty-Nine (25) residential Units with an expected total of Ninety-One (91) residential Units at the conclusion of all phases, all as generally depicted in Exhibit D. The Units shall consist of both single, free standing structures and Units constructed in clusters, with adjoining common walls, roofs and exterior elements; as well as Limited Common Elements.

2. **ARTICLE 9., INSURANCE**, Section 9.01 a), Property Insurance, is *deleted* in its entirety and supplanted with the following:

a) Property Insurance. The Association shall procure a property insurance policy or policies insuring the Common Elements and, if available, all the unfinished, structural and exterior components of the Private Elements constructed in clusters, with common walls, roofs and exterior elements as referenced in Section 3.01 above, against loss or damage by fire or other casualty or peril embraced within an "All Risk" type of coverage for the full replacement cost thereof. Such policy or policies of insurance shall be purchased in the name of the Association and shall name the Association as loss payee. The owners of single, free standing Private Elements shall be responsible to individually secure casualty insurance for loss, damage by fire or other casualty or peril embraced within an "All Risk" type of coverage for the full replacement cost thereof, at their sole cost and expense.

3. **ARTICLE 9., INSURANCE**, Section 9.02 a), Property Insurance, is *deleted* in its entirety and supplanted with the following:

a) Property Insurance. In the event the Association secures and maintains the casualty insurance for the cluster type Units as provided in Section 9.01 a) above, each Owner of such Unit shall nevertheless be responsible for the purchase and continual maintenance, at such Owner's sole cost and expense, full and adequate casualty property insurance on the interior finished portions of their Unit and furnishings and contents located in the Unit or located in any

area of the Common Elements. Provided, however, in the event the Association is not able to obtain – or in its judgment should no longer secure – the coverage on the Private Elements constructed as set forth in 9.01 a) above, the Unit Owners shall be obligated to secure such coverage directly at their own expense. As indicated in 9.01 a) above, Owners of single, free standing Private Elements are responsible for said insurance covering the *entirety* of their property and improvements thereon, at their sole cost and expense.

**IN WITNESS WHEREOF**, the Declarant has caused this First Amendment to the Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development to be duly signed and adopted this 31<sup>st</sup> day of October, 2023.

CHEROKEE BAY, LLC

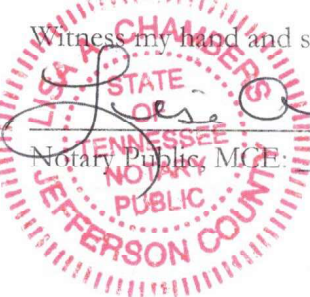
Paul Tambe  
BY: Paul Tambe  
ITS: Managing member

STATE OF TENNESSEE )  
COUNTY OF Jefferson )

Before me, the undersigned authority, a Notary Public for the said County and State, personally appeared Paul Tambe, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, executed the foregoing instrument for the purpose therein contained and who further states he is the President of Cherokee Bay, LLC and is authorized to sign this document on its behalf.

Witness my hand and seal, at office, this 31<sup>st</sup> day of October, 2023.

[Signature]  
Notary Public, MCE: Expires 7-7-2024



**BK/PG: 1786/25-26**  
**23008084**

2 PGS:AL-AMENDMENT TO RESTRICTION	
DEB BATCH: 172107	10/31/2023 - 09:04 AM
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	10.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	12.00

STATE OF TENNESSEE, JEFFERSON COUNTY  
**ED STINER**  
REGISTER OF DEEDS



**SECOND AMENDMENT TO AMENDED AND RESTATED DECLARATION,  
COVENANTS AND RESTRICTIONS  
FOR THE CHEROKEE BAY DEVELOPMENT**

The Declarant, pursuant to Article 14. thereof, adopts and submits the following amendments to the Amended and Restated Declaration, Covenants and Restrictions for the Cherokee Bay Development of record in Book 1755, Page 196 in the Jefferson County, Tennessee Register of Deeds Office.

1. **ARTICLE 11., MISCELLANEOUS**, is amended by the *addition* of the following:

11.09 Boat Slip Transfers. The Declarant is constructing a private boat slip marina on the shores of Cherokee Lake appurtenant to the development, containing 76 boat slips for the acquisition and use by Unit Owners in the Cherokee Bay Development. The terms, conditions, provisions and rules for the transfer, use and maintenance of the private boat slip marina and boat slips therein are set forth in EXHIBIT E hereto "Boat Slips – Cherokee Bay", which is adopted and incorporated herein as if set forth verbatim.

2. **EXHIBIT E**, "Boat Slips – Cherokee Bay", as appended hereto is added and incorporated within the Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development and made a part thereof.

**IN WITNESS WHEREOF**, the Declarant has caused this Second Amendment to the Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development to be duly signed and adopted this 6th day of September, 2024.

CHEROKEE BAY, LLC

Paul Tambe  
BY: PAUL TAMBE  
ITS: PRESIDENT

CHEROKEE BAY OWNERS ASSOC.

Paul Tambe  
BY: PAUL TAMBE  
ITS: AUTHORIZED OFFICER

STATE OF TENNESSEE )  
COUNTY OF Jefferson )

Before me, the undersigned authority, a Notary Public for the said County and State, personally appeared Paul Tambe, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, executed the foregoing instrument for the purpose therein contained and who further states he is the President of Cherokee Bay, LLC and a designated officer for Cherokee Bay Owners Association and is authorized to sign this document on their behalf.

Witness my hand and seal, at office, this 6th day of September, 2024.

Tracy E. Monroe  
Notary Public, MCE:



## **EXHIBIT E**

### **BOAT SLIPS - CHEROKEE BAY**

WHEREAS, Declarant is constructing a private boat slip marina upon the waters of Cherokee Lake, appurtenant to and for the exclusive benefit of Unit Owners within the development; and

WHEREAS, Declarant wishes to set forth the terms, conditions, restrictions and provisions for the transfer and use of boat slips in the marina;

NOW, THEREFORE, the following provisions are imposed, adopted and binding as part of the Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development:

#### **ARTICLE 1 DEFINITIONS**

1.01 "Dock" shall mean all portions of the private marina facility depicted on Exhibit 1. hereto, *exclusive of* the individual boat slips, including structures leading from the shore to the individual slips, the gang planks, docks, walkways and structural components.

1.02 "Slip" shall mean and refer to any one of the numbered boat Slips for the mooring of boats or other personal watercraft identified on Exhibit 1. The Slips shall be 10 feet in width by 24 feet in length and shall include access to electrical service and overhangs (24 ft. or 28 ft.), unless otherwise depicted on Exhibit 1 or modified by Declarant.

All the other Definitions shall be as set forth in the Amended and Restated Declaration of Covenants and Restrictions for the Cherokee Bay Development.

#### **ARTICLE 2 TRANSFER AND PROPERTY RIGHTS**

2.01 Upon transfer by the Declarant to the Owner of a Slip, the Owner shall be vested with the full legal and exclusive right of use of the Slip for the Owner's benefit and that of the Owner's guests and invitees. The Slip shall be treated as a "Private Element" except to the extent otherwise stated herein.

2.02 The Owner, the Owner's guests and invitees shall have full use of the Dock for means of access and otherwise to facilitate use of the Slip, subject to the provisions hereafter regarding joint maintenance obligations and restrictions on use.

2.03 The Owner's rights in and to the Slip and Dock shall be appurtenant to and not separated from the ownership of a Unit. Upon the transfer of a Unit by an Owner whereupon the Owner no longer owns a Unit within the Development, the Slip shall be contemporaneously transferred to the transferee of the Unit *or* to another Unit Owner in the Development. No person or entity (excluding the Declarant or the Association) may own a Slip independently from ownership of a Unit. No Slip may be transferred to a person or entity *other than* a Unit Owner.

2.04 There shall be no lease, rental or other delegation of an Owner's right or use of a Slip other than a transfer as indicated above. Provided, however, nothing set forth herein is intended to limit an Owner's right to extend the enjoyment of the Owner's use to family, guests or invitees.



Except on a temporary basis, no Slip may be used for the mooring of a boat or watercraft not owned or dedicated for the primary use of the Owner.

### **ARTICLE 3 MAINTENANCE ASSESSMENTS**

3.01 It is understood and acknowledged that the maintenance of the private marina consisting of the Slips and Dock is separate and apart from the common expenses of the Cherokee Bay Development. A separate annual assessment shall be charged to the Owners per Slip, which charge may vary based upon the electrical amperage available to the Slip and overhang size (24 ft. or 28 ft.).

3.02 The initial annual assessment for Slips 1 through 16 and Slips 33 through 76 shall be \$300.00; the initial annual assessment for Slips 25 through 32 shall be \$350.00 and the initial annual assessment for Slips 17 through 24 shall be \$400.00.

3.03 The assessments shall be used to defray the cost of maintenance, repairs, electrical service, administrative costs, reserves and any other expenses attributable to maintaining the marina and Slips therein. The annual assessment shall be based upon a reasonable budget for such costs and expenses. In addition to the annual assessment, a special assessment may be imposed in the event of an unforeseen or unbudgeted expense requiring the infusion of additional funds by the Owners.

3.04 During the course of the development of Cherokee Bay and until such time as the Association is independent of the Declarant control, the Declarant shall determine the annual assessment and any special assessment, if necessary. Thereafter, the Association shall determine the assessment.

3.05 The Declarant and, thereafter, the Association shall determine the due date for any assessment. In the event an assessment is not paid within 30 days after the scheduled due date, the past due amount shall then include a 10% penalty for failure to timely pay *and* enforcement of the assessment may be undertaken in the same manner and with the same rights as the Association has in the collection of the general assessments as provided for in the Amended and Restated Declaration, Covenants and Restrictions, including the lien rights upon a Unit and the recovery of attorney's fees and costs in the event of collection action. In addition, the Unit Owner may, upon notice, be denied access and rights of use of the Slip during periods of delinquency.

### **ARTICLE 4 MAINTENANCE**

4.01 Unless otherwise provided herein, the Declarant, during the course of development and, thereafter, the Association shall maintain and repair the structural and mechanical elements of the marina (Dock and Slips) with the funds provided through the assessments. Provided, however, the Owner shall be responsible for maintenance, repair and replacement of any personal mooring equipment or devices or similar equipment not provided with the Slip. A separate accounting of the assessments and expenses of the marina shall be maintained by the Declarant and then the Association.

4.02 In the event the need for maintenance, repair or replacement of any part of the marina is caused by the negligent or willful act of an Owner or an Owner's guest, invitees, contractor or other persons acting by or through the Owner, the expenses incurred for such maintenance, repair or replacement shall be the personal obligation of such Owner and shall be charged to the Owner as



an additional assessment, with the full rights of collection in the event of failure to pay as with the annual assessment as set forth above.

## ARTICLE 5 RESTRICTIONS ON USE

5.01 Slip Use. No Slip shall be used for any purpose except for the authorized mooring of watercraft. No watercraft moored within a Slip shall be used for residential purposes. No person shall use any Slip who is not a Unit Owner or a family member, invitee or guest of a Unit Owner.

5.02 Nuisance. No noxious or offensive activity shall be conducted upon or within a Slip, nor shall anything be done thereon which may be or become an annoyance or nuisance to the other Owners.

5.03 Animals. Household/domestic pets may accompany the Owner, Owner's guest and invitees in connection with the use of the Slip, provided that the pets are properly leashed (dogs) or controlled at all times so as to not intrude upon or interfere with adjoining Owner's rights of use and enjoyment of their Slips and the appurtenant walkways. Provided, further, the Owner shall be fully responsible for immediate cleaning of excrement from the pet(s).

5.04 Improvements. Except for Declarant's construction of the Docks, no construction or improvement of any kind shall be erected on the property except upon written consent of the Declarant and, thereafter, the Association. Each Owner shall either mechanically hoist his watercraft(s) above the ground or remove it from the Slip if water levels recede such that the boat does not float; watercraft will not be allowed to rest on the lakebed when the water has receded.

5.05 Signs. No sign of any kind shall be displayed to the public view on any Slip or the marina, except such signage regarding safety or general instructions as may be approved by the Declarant and, thereafter, the Association.

5.06 Garbage and Refuse Disposal. No rubbish, trash, garbage, or other waste shall be stored on the property. All areas must be maintained in a neat, orderly fashion.

5.07 Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of the property or any Slip or watercraft; and all valid laws and regulations of all governmental bodies having jurisdiction thereof shall be observed. The requirements of all applicable governmental permits shall be complied with.

5.08 Commercial Business. No commercial businesses may be maintained at the marina or in the watercrafts moored at the marina.

5.09 Alterations. Nothing shall be altered or constructed on or removed from the property except upon the written consent of the Declarant and, thereafter, the Association.

5.10 Rules for Property. The Declarant and, thereafter, the Association through its Board, may adopt rules for the use of the marina, with such rules being furnished in writing to the Owners.

5.11 Fires; Fireworks. At the marina or on the watercrafts moored within a Slip, there shall be no open fires of any kind. No fireworks shall be used upon any portion of the marina or on any watercraft moored within a Slip.

5.12 Work on Watercrafts. Sanding, grinding, spray painting, or the use of any tool or equipment that creates noises that would interfere with the peace and quiet of other Owners is prohibited.

5.13 Watercrafts. No boat or watercraft is permitted to be moored in a Slip that exceeds the capacity of the Slip. An Owner may, however, moor multiple watercrafts within a Slip if such watercraft can reasonably and safely fit within the confines of the Slip.

## ARTICLE 6 GENERAL PROVISIONS

6.01 The provisions of this instrument shall be binding upon the Slips and the Owners of each Slip, their grantees, successors and assigns.

6.02 Severability. Invalidation of any provision of this instrument by judgment or order of a court of competent jurisdiction shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and such provision so invalidated shall remain in full force and effect in all permitted context.

6.03 Insurance. The Declarant, and thereafter Association, shall secure casualty and general liability insurance on the marina, which shall be a common expense paid through the assessments. Provided, however, the Slip owners have the sole responsibility to secure casualty, liability or any other insurance to insure their watercraft or other personal property and for personal liability arising out of their use of the Slip and watercraft.

6.04 Association Transfer. If at some future time after the Association assumes responsibility for the marina as set forth herein, the Association determines it in its best interest or that of the Unit Owners to create a separate entity or otherwise segregate the marina, the assessments, expenses and maintenance, etc. as provided herein, the Association is authorized to do so. Provided, however, the provisions set forth herein shall otherwise remain in full force and effect, specifically including the rights and use of the Slip Owners, unless lawfully amended. Provided, further, that any such successor entity established by the Association shall be nonprofit, for the benefit of the Slip Owners.

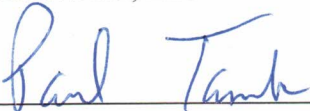
## ARTICLE 7 TRANSFER

7.01 The transfer of a Slip by an Owner as provided for herein shall be in writing and in a form so as to be recordable in the Register of Deeds Office for Jefferson County, Tennessee. The instrument may be entitled "Boat Slip Transfer, Cherokee Bay Development" and shall designate and identify within the instrument the Unit owned by the transferor and the Unit owned by the transferee, as well as the specific Slip number as depicted on the marina/boat Slip diagram attached hereto as Exhibit 1. The transferring instrument should further reference the "Second Amendment to the Amended and Restated Declaration, Covenants and Restrictions for the Cherokee Bay Development" and the adoption of this "Exhibit E".

7.02 Declarant has caused to be prepared a diagram of the marina/boat Slips depicted on Exhibit 1 hereto. Declarant reserves the right to modify the diagram, structures and boat Slips depicted therein as may be deemed necessary, but shall undertake no modification that would constitute a taking or loss of a Slip previously conveyed.

IN WITNESS WHEREOF the undersigned has executed this Exhibit E on this the 6<sup>th</sup> day of September, 2024.


CHEROKEE BAY, LLC



BY: PAUL TAMBE

ITS: PRESIDENT

CHEROKEE BAY OWNERS ASSOC.



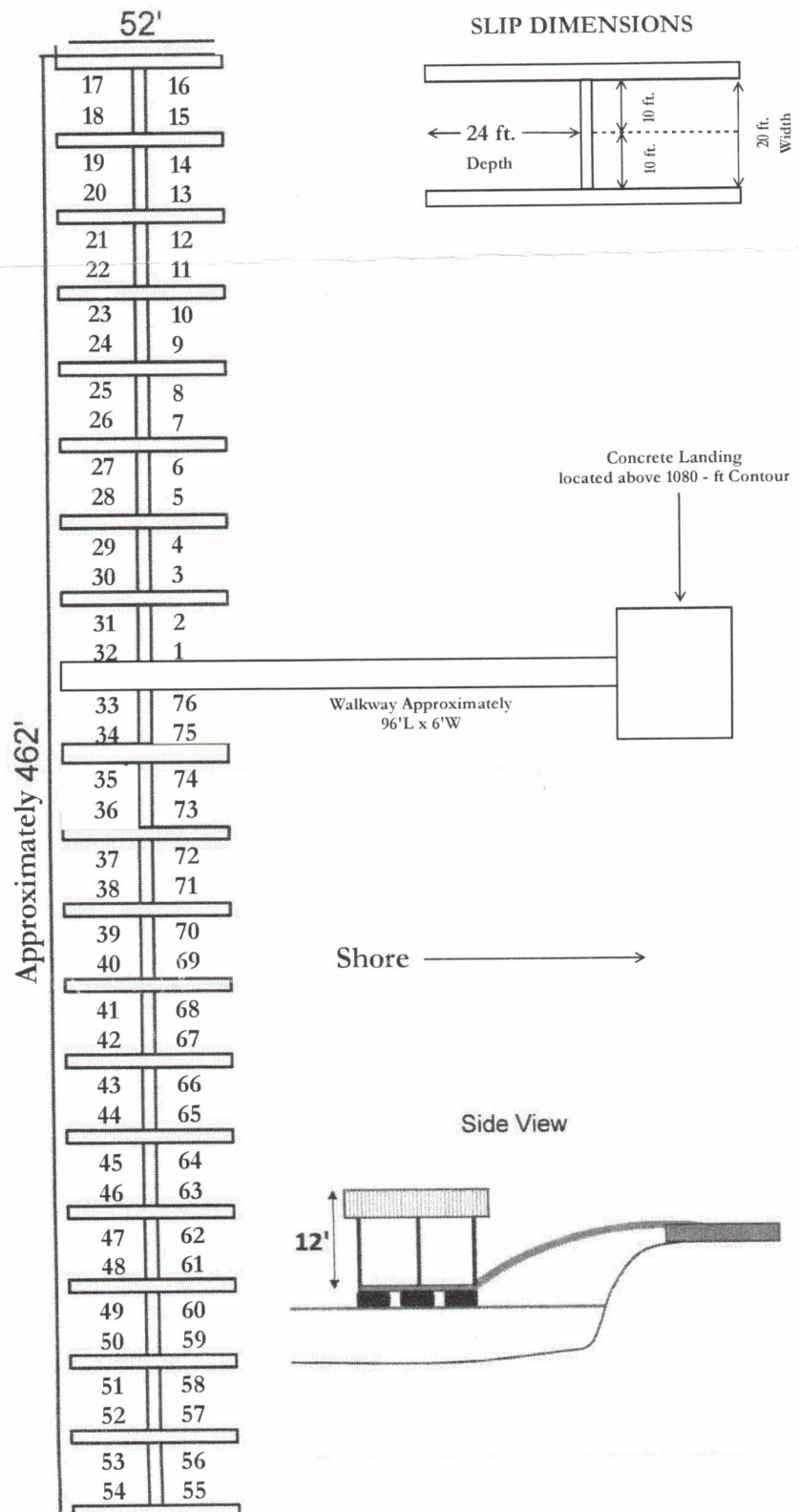
BY: PAUL TAMBE

ITS: AUTHORIZED OFFICER



# Cherokee Bay Boat Slip Marina Facility

EXHIBIT 1



**BK/PG: 1837/471-476**  
**24006281**

6 PGS:AL-AMENDMENT TO RESTRICTION	
LISA BATCH: 178995 09/06/2024 - 09:00 AM	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	30.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	32.00

STATE OF TENNESSEE, JEFFERSON COUNTY  
**ED STINER**  
REGISTER OF DEEDS