

**BY-LAWS OF  
THE ESTATES OF HICKORY WOODS HOMEOWNERS ASSOCIATION, INC.**

***ARTICLE I - LOCATION***

The development to be administered under these By-Laws of The Estates of Hickory Woods Homeowners Association, Inc. (hereafter the Association) shall be The Estates of Hickory Woods located on Lavergne Couchville Pike and Maxwell Road in Antioch, Davidson County, Tennessee.

***ARTICLE II - ACCEPTANCE***

All present or future owners, tenants, future tenants, or their employees, or any other persons who might use the real property of the development in any manner, are subject to the regulations set forth in these By-Laws. The acquisition or rental of any of the lots of the development or occupancy of any of said lots shall signify that these By-Laws are accepted, ratified, and obligatory and will be complied with.

***ARTICLE III - MEMBERSHIP AND VOTING RIGHTS; QUORUM; PROXIES***

**Section 1. Membership.** Pursuant to the Declaration of Covenants, Conditions and Restrictions for The Estates of Hickory Woods (hereinafter the Declaration), every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

**Section 2. Voting Rights.** The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all those owners as defined in Section 1, with the exception of the Developer. Class A members shall be entitled to one (1) vote for each lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any lot, all such persons shall be members and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to such lot.

**Class B.** Class B member shall be the Developer “and its transferees and/or assigns”. The Class B member shall be entitled to vote as a separate class in all referendums requiring the concurrence of both classes of members, and with respect to those matters solely to be voted upon by the Class B member, as well as being entitled to three (3) votes for each lot in which he holds the interest required for membership by Section 1, when voting in all matters requiring the concurrence of a specified percentage of the membership as a whole. The Class B membership shall cease and become converted to Class A membership at such time as seventy-five percent (75%) of the lots have been sold, transferred and/or conveyed, or notwithstanding the number of lots, or percentage thereof that have been sold, transferred and/or conveyed, or on December 31, 2006, or upon a written notice to such effect from the Developer to the Association, whichever is first to occur.

**Section 3. Approval by Developer.** For so long as Developer retains title to any lot, no action of the Association, its Board of Directors or Committee designated by it shall become effective until satisfied in writing by the Developer, his heirs, assigns or successors in interest.

**Section 4. Annexation of Property.** For so long as Developer's Class B Membership exists, the annexation of additional properties, mergers and consolidation, the mortgaging of common areas, dissolution and amendment of the Articles of Incorporation of the Association requires prior approval of HUD/VA.

**Section 5. Government Modification/Taking.** For so long as Developer or a builder who purchases lot(s) from the Developer retains title to any lot, the Developer (or builder) shall have the right to move and re-plot any lot or building pad shown on the Plat of the development effected by governmental action, whether local, state or federal, which modifies or takes said lot or building pad so that the development shall have the same number of total lots or building pads after the government's modification or taking as before. Notwithstanding the foregoing, the Association shall have the right to purchase any lot or building pad so affected and it shall pay the Developer (or builder) the fair market value of said lot or building pad.

Section 6. **Quorum.** Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of owners shall constitute a Quorum.

Section 7. **Proxies.** Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of each meeting.

#### **ARTICLE IV - ADMINISTRATION**

Section 1. **Duties and Powers.** In addition to the duties and powers enumerated in its Articles of Incorporation and the Declaration or elsewhere provided for herein, and without limiting the generality hereof, the Association shall:

- (a) Own, maintain and otherwise manage all of the common areas and all facilities, improvements and landscaping thereon, including, but not limited to, the private streets, walkways, cemetery, retaining walls, open space, ponds and all other property acquired by the Association.
- (b) Pay any real and personal taxes and other charges assessed against the-common-area.
- (c) Have the authority to obtain, for the benefit- of all the common areas, all water, sewer, gas and electric services and refuse collection.
- (d) Grant easements where necessary for utilities and sewer facilities over the common areas to serve the common areas and the lots.
- (e) Maintain such policy or policies of insurance as the Board of Directors of the Association deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members.
- (f) Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.
- (g) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.
- (h) Have the power of entry upon any lot where necessary in connection with construction, maintenance or repair for the benefit of the owners or of the common areas.
- (i) Have a duty to maintain: (i) the landscaping in the areas between the edge of the private streets and the outer walls and fences of all courtyards, patios and dwellings; (ii) and the streets and sidewalks and any off-street parking areas within the property.
- (j) Have the power and duty to enforce the provisions of this Declaration by appropriate means, including without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of actions.
- (k) Have the power and duty to amend the Articles of Incorporation of the Association however, approval to amend the Association's Charter shall require the approval of at least two-thirds (2/3) vote of the Association.

Section 2. **Annual Meeting.** An annual meeting of voting members shall be held at such place as such members determine within five (5) months of the close of the calendar year, or at such other place or places as the Board of Directors may designate from time to time by resolution. Appropriate for consideration at such meetings shall be the election of directors, and such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Tennessee, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated for an annual meeting, or at any adjournment of such a meeting, the Board of Directors shall cause the election to be held at a special meeting of voting members conducted as soon as may be convenient.

Section 3. **Special Meetings.** Special meetings of voting members may be called by the President of the Association or the Board of Directors.

Section 4. **Place of Meeting.** The Board of Directors may meet at any place, within or without the State of Tennessee, as the place of meeting for any annual or special meeting of voting members. However, if all voting members shall meet at any time and place, either within or without the State of Tennessee, and consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting any corporation action may be taken. ""

Section 5. **Notice of Meetings.** Oral, written or printed notice stating the place, day, and hour of any meeting of voting members shall be delivered personal or by telephone or mail to each voting member entitled to vote at such meeting, not less than five (5) days before the date of such meeting, by or at the direction of the president, secretary, or such officers or persons as are calling the meeting. In the case of special meetings, or when required by these bylaws or by law, the purpose or purposes for which the meeting is called shall be stated in the notice.

If sent by mail, a notice of meeting shall be deemed delivered when deposited in the United States mail, postage prepaid, addressed to the voting member at the member's address as it appears on the records of the corporation at the time of the mailing.

Section 6. **Informal Action by Voting Members.** Any action required or permitted to be taken at any meeting of voting members, may be taken without such meeting if a consent in writing, setting forth the action to be taken, shall be signed by all voting members entitled to vote with respect to such action.

#### **ARTICLE V - BOARD OF DIRECTORS**

Section 1. **Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons each of whom shall be elected for a three (3) year term which shall be scheduled such that no more than one Director shall be elected in any one (1) year (i.e., the terms shall be "staggered") except due to death or resignation. The initial Board of Directors shall be composed of the Class B member as that term is defined in Section 2, Article III, or its successors and assigns. The Class B member shall continue to form the succeeding Board of Directors for so long as the Class B membership shall exist. At such time as the Class B membership shall cease, pursuant to the Declarations, the Board of Directors shall be composed of three (3) persons who shall be elected by the Association.

Section 2. **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these By-Laws prohibited.

Section 3. **Other Duties.** In addition to duties imposed by these By-Laws or by resolution of the Association, the Board of Directors shall be responsible for the following:

- (a) The amount and time of payment of regular monthly assessments shall be determined by the Board of Directors of the Association pursuant to the Articles of Incorporation of said Association and the Declaration after giving due consideration to the current costs of services and future needs of the Association. Written notice of the amount of assessments shall be sent to every owner, and the due date, or dates, for payment shall be set forth in said notice. Further, the Board of Directors of the Association may change the amount of the regular assessments at such times that they determine that such change is necessary after giving due consideration to current costs of services and future needs of the Association provided that increases shall not be more than 20% of the most recently established assessment.
- (b) The rate of assessment for all lots for both regular and special assessments shall be established by the Board of Directors of the Association and may be collected on a monthly basis.
- (c) The regular monthly assessments provided for herein shall commence as to all lots in the property and in all property annexed hereto on the first day of the month following the conveyance of each lot to an individual owner. Provided, however, that the Association may, by a majority vote of its Board of Directors, extend the commencement date of regular monthly assessments to a later time if Developer, by a written agreement with the Association, commits to maintain the services and common properties until such extended date. The regular monthly assessments shall be due and payable on the first day of each month.
- (d) The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each lot for each assessment period of at least thirty (30) days in advance of each date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

Section 4. **Replacement of Directors.**

- (a) Whenever a vacancy exists on the Board of Directors, whether by death, resignation, or otherwise, the vacancy shall be filled by appointment of a new director by a majority of the remaining directors at a regular or special meeting of the board. Any person appointed or elected to fill the vacancy of a director shall have the same qualifications as were required of the director whose office was vacated.
- (b) Any director may be removed, with or without cause, by the vote of seventy-five percent (75%) of the voting members at a special meeting called for that purpose in which a quorum is present. In addition, the number of directors can be increased or decreased by the vote of seventy-five percent (75%) of the voting members at a special meeting called for that purpose in which a quorum is present. At any such meeting, any vacancy may be filled as stated above.

Section 5. **Organization Meeting.** The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the Board shall be present.

Section 6. **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, or telegraph, or teletype, at least three (3) days prior to the day named for such meeting.

#### ***ARTICLE VI - OFFICERS***

Section 1. **Designation of Officers.** The officers of the corporation shall be a president, a secretary, a treasurer, and such other officers as may be elected in accordance with the provisions of this article. The Board of Directors may elect or appoint such other officers, including one or more assistant secretaries, and one or more assistant treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

Section 2. **Election and Term of Office.** The officers of this corporation shall be elected annually by the Board of Directors at the first regular annual meeting of the Board of Directors for the calendar year. If the election of officers shall not be held at such meeting, such election shall be held as soon as may be convenient. New offices may be created and filled at any meeting of the board. Each officer shall hold office until his or her successor shall have been duly elected and shall have been qualified.

Section 3. **Removal.** Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the interests of the corporation would be best served thereby. Any such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 4. **Vacancies.** A vacancy in any office, whether due to death, resignation, removal, disqualification, or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

#### ***ARTICLE VII - INDEMNIFICATION OF DIRECTORS AND OFFICERS***

Pursuant to Sections 48-58-501 through 509 of the Nonprofit Corporation Act, each director and officer of the Association, now or hereafter in office, and his or her heirs, executors, administrators and successors shall be indemnified by the Association against all costs, expenses, amounts or liability therefore, including counsel fees, which are reasonably incurred by or imposed upon him by, from, or in any proceeding or claim to which he or she may be made a party, or in which he or she may be or become involved by reason of his or her acts or alleged acts of omission or commission as such director or officer, or subject to the provisions hereof, for any settlement thereof, whether or not he or she continues to be such director or officer at the time of incurring such costs, expenses, or amounts. Such indemnification shall not apply, however, with respect to any matter as to which such director or officer shall be finally adjudged in such action, suit or proceeding to have been individually guilty of willful misfeasance or malfeasance in the performance of his or her duties as such director or officer, or for any breach of his or her duty of loyalty to the Association, or a knowing violation of law, or for assenting to an unlawful distribution as outlined in Section 48-58-304 of the Nonprofit Corporation Act. Further, the indemnification herein provided shall, with respect to any settlement of any such suit, action, proceeding or claim when, in the judgment of the Board of Directors, a settlement of reimbursement appears to be in the best interests of the Association. The foregoing right of indemnification shall be in addition to, and not exclusive of, any and all other rights as to which any such director or officer may be entitled under the Charter of the Corporation, any agreement, vote of Members or otherwise.

#### ***ARTICLE VIII - COMMITTEES***

In addition, the Board of Directors shall appoint such committees as deemed appropriate to carry out the purpose of the Association or the Declaration.

#### ***ARTICLE IX - BOOKS & RECORDS***

Current copies of the Declaration, these By-Laws, and other rules concerning the Property and the corporate books and records shall be made available for inspection by any Member or to the holder, guarantor or insurer of any first mortgage at the principal office of the Association. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours. Copies may be purchased at reasonable cost.

## **ARTICLE X - ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association regular monthly assessments, to be paid as provided by the Board of Directors as well as special assessments, both of which are secured by a continuing lien upon the property against which the assessment is made.

**Section 1. Effect of Nonpayment of Assessment.** If the assessments are not paid on the date when due then such assessment shall become delinquent and shall, together with such interest thereon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. The Owner shall be required to pay a "late charge" of Ten Dollars (\$10.00) per each delinquent assessment.

If the assessment is not paid within ten (10) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum or such reasonable interest not to exceed the legal rate as may be otherwise set by the Board of Directors and the Association may bring an action of law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessments the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court together with the costs of the action.

**Section 2. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter become due, nor from the lien of any such subsequent assessment.

**Section 3. Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: *(a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties defined in the Declaration; (c) all properties exempted from taxation by the law of the State of Tennessee, upon the terms and to the extent of such legal exemption.*

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use, and owned by Class A membership as that term is defined in Section 2, Article III, shall be exempt from said assessments, charges or Liens.