

EXHIBIT "D"

By-Laws of the Association

**AMENDED AND RESTATED BYLAWS
OF THE
OVERTON RETREAT OWNERS ASSOCIATION, INC.**

**ARTICLE I
PRELIMINARY MATTERS**

Section 1.1 In addition to terms defined elsewhere herein, the following terms have the indicated meanings:

"Act" means the Tennessee Nonprofit Corporation Act, Title 48, Chapters 51-68, Tennessee Code Annotated, as amended and in effect from time to time.

"Association" means Overton Retreat Owners Association, Inc. a Tennessee nonprofit corporation.

"Board" means the board of directors of the Association.

"Charter" means the charter of the Association, as heretofore or hereafter supplemented, amended, amended and restated or otherwise modified from time to time

"Covenants" means the Declaration of Covenants, Conditions, Easements and Restrictions for Overton Retreat Residential Community, Warren and Van Buren Counties, Tennessee, dated June 24, 2002, of record in Record Book 28, page 610, Office of the Register of Deeds for Warren County, Tennessee, as heretofore or hereafter supplemented, amended, amended and restated or otherwise modified from time to time.

"Directors" means the directors of the Association.

"Overton Retreat" means the Overton Retreat Residential Community located on Long Mountain outside McMinnville, Tennessee.

"Rules and Regulations" means any rules and regulations promulgated by the Association pursuant to Article IV of the Covenants.

Section 1.2 Capitalized terms used herein but not defined herein shall have the same meaning as in the Covenants.

Section 1.3 In the event of a conflict between a provision of these Bylaws on the one hand, and a provision of the Act, the Covenants and the Charter on the other hand, the latter shall control.

**ARTICLE II
THE MEMBERS**

Section 2.1 Every Owner shall be a Member of the Association, except that any person or entity who holds such interest merely as security for the payment or performance of an obligation shall not

be a Member. Membership in the Association is appurtenant to and may not be separated from the ownership of any Lot.

2.1.1 All Members, by acceptance of a deed for their respective Lots, shall be subject to the following, regardless of whether referred to in any deed for the Member's property:

(a) The Covenants, the Charter, these Bylaws, the Use and Design Restrictions, the Architectural Guidelines and any Rules and Regulations;

(b) The obligation to pay all annual and special assessments or charges levied by the Association; and

(c) The obligation to provide a current mailing address to the Association secretary and to notify the Association when a Lot is conveyed or transferred, such notice to include the name and address of the new Owner.

2.1.2 Subject to the Covenants, the Charter and these Bylaws, Members shall be entitled to the following rights and privileges:

(a) Each Class "A" Member shall be entitled to one (1) vote for each Lot in which such Member holds the interest required for Membership in the Association, whether such Lot is improved or unimproved, and the Class "B" Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for Membership in the Association, whether such Lot is improved or unimproved;

(b) The use and enjoyment of the Common Areas for themselves, their household members and guests;

(c) The architectural review process for approval of plans for new homes, renovations and other exterior improvements;

(d) Association publications and communications; and

(e) Attendance at Association meetings.

2.1.3 Membership rights and privileges may be suspended by action of the Board for Members who are delinquent in the payment of assessments until payment has been received, including interest charges and any legal or collection fees incurred.

Section 2.2 The Association shall hold annually a meeting of the Members at a time and place designated by the Board. Each annual meeting shall occur no later than the anniversary of the preceding annual meeting.

Section 2.3 Special meetings of the Members for any purpose may be called at any time by the Board president, by a majority of the Board, or upon written petition by Members representing at least twenty-five percent (25%) of the total Member votes.

Section 2.4 Notice of any meeting of the Members shall be given to the Members at least thirty (30) days in advance of the meeting, and shall set forth in general the nature of the business to be transacted and any other information required by the Act. Meeting notices may be given to the Members by sending

a copy of the notice through the mail to the address of each Member appearing on the books of the Association, or by such other method (including electronic communications) that is fair and reasonable.

Section 2.5 Members representing a majority of the total Member votes shall constitute a quorum for the transaction of business. A meeting of Members may be adjourned despite the absence of a quorum, and notice of an adjourned meeting is not necessary if the time and place to which the meeting is adjourned are announced at the meeting before adjournment. Except as otherwise provided in the Charter, these Bylaws, the Covenants or the Act, when a quorum is present at any meeting of Members, any matter submitted to a vote of the Members shall require the affirmative vote of greater than fifty percent (50%) of the total Member votes present, in person or by proxy, in order to constitute the action of the corporation.

Section 2.6 The Members of the Association may act by written consent or by written ballot as provided in the Act.

ARTICLE III **THE ASSOCIATION**

Section 3.1 The Association is organized as a non-profit corporation under the laws of the State of Tennessee and is responsible for maintaining the Common Areas and other Areas of Common Responsibility, administering and enforcing the Covenants, and collecting and disbursing assessments so as to achieve the following goals:

3.1.1 To preserve and enhance the amenities, natural beauty and harmony of Overton Retreat.

3.1.2 To promote the safety, health and welfare of all who live and work at Overton Retreat.

3.1.3 To promote the common benefit and enjoyment of both the private and common properties.

3.1.4 To promote the financial welfare of the Association through forecasting, planning and careful administration of Association funds.

Section 3.2 The affairs of the Association shall be managed and directed by the Board and, in the discretion of the Board may be administered by a manager having such duties and powers as shall be designated by the Board.

Section 3.3 The Association shall keep and maintain complete accounts and records of Association affairs. Members shall be entitled to examine such as provided in the Act.

3.3.1 The records of the Association shall include, but are not limited to:

- (a) A roster of Members' names, addresses and telephone numbers;
- (b) Financial records, including forecasts, budgets and regular reports;
- (c) The Charter;
- (d) These Bylaws

- (e) Minutes of all meetings of the Board and the Members;
- (f) Resolutions and other actions taken by the Board and the Members;
- (g) The Covenants;
- (h) Architectural Guidelines;
- (i) Rules and Regulations;
- (j) Contractor Rules; and
- (k) If applicable, a personnel policy and benefits manual.

3.3.2 Single photocopies of requested Association records shall be made available to Members upon reasonable notice and, if required by the Association, payment of a reasonable charge.

Section 3.4 The Association shall make available to the Members, upon receipt of written request, copies of the Covenants, the Charter, these Bylaws, the Architectural Guidelines, the Rules and Regulations, and/or the Contractor Rules, and may make a reasonable charge therefor.

ARTICLE IV THE BOARD OF DIRECTORS

Section 4.1 The Association shall have a Board. Directors may be, but need not be, Members of the Association.

Section 4.2 Prior to the expiration or termination of the Class "B" Control Period, the Board shall consist of up to nine (9) Directors elected solely by the Class "B" Member.

Section 4.3 Following the expiration or termination of the Class "B" Control Period, the Board shall consist of no fewer than three (3) or more nine (9) Directors. Within that range, the number of Directors shall be determined by the Board. Following the expiration or termination of the Class "B" Control Period, Directors shall be elected by a plurality of the votes cast by Members entitled to vote in the election at a meeting at which a quorum is present. Cumulative voting is not permitted.

Section 4.4 Subject to Section 4.5 below, the term of office of each Director shall be three (3) years and shall expire at the time of the annual meeting of the Members at which such Director's successor is elected. The terms of approximately one-third (1/3) of the Directors shall expire each year.

Section 4.5 At the first annual meeting of the Members following the expiration or termination of the Class "B" Control Period, the Members shall elect one or more directors to serve for a term of one (1) year each, one or more directors to serve for a term of two (2) years each, and one or more directors to serve for a term of three (3) years each such that the terms of approximately one-third (1/3) of the Directors so elected shall expire in each subsequent year. At each annual meeting thereafter, the Members shall elect Directors to replace the Directors whose terms have expired.

Section 4.6 A Director may be removed from the Board by a majority vote of the other Directors for (a) engaging in acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of the law, (b) engaging in any transaction from which the Director derives improper personal benefit, or (c) being absent from three (3) regularly scheduled consecutive Board meetings or being delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days. A Director may be removed from the Board by the Members as provided in the Act.

Section 4.7 Vacancies on the Board occurring in mid-term shall be filled by a majority vote of the remaining Directors. A Director so approved shall serve until his or her successor is elected by the Members at the next annual election of Board members or at a special meeting called for that purpose.

Section 4.8 Regular Board meetings for each year shall be established by resolution of the Board at the first Board meeting following the annual meeting of Members. Notice thereof will be given to all Directors. Special meetings of the Board shall be held when called by the Board president or any two (2) Directors, after not less than three (3) days' notice to each Director.

Section 4.9 Board meetings may be held by telephonic or other electronic conference communications by which all Directors may simultaneously hear each other; *provided* that after expiration of the Class "B" Control Period, Members who are entitled to attend the a Board meeting shall be included at their request in the telephonic or electronic communications.

Section 4.10 After expiration of the Class "B" Control Period and subject to the provisions of Section 4.13 of these Bylaws, all regular meetings of the Board shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation, unless permission to speak is requested of the Board secretary at least seven (7) days prior to the meeting or as otherwise required by the Act. The president may call for comments from Members in attendance, if they desire, and, in such case, the president may limit the time any Member may speak. Notwithstanding the above, the president may adjourn any meeting of the Board and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as legal issues, personnel matters, etc.

Section 4.11 Except as otherwise provided in the Act, the Charter or these Bylaws, a majority of the Directors in office immediately before a meeting begins shall constitute a quorum, and the vote of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. When a quorum is once present to organize a meeting, a meeting may be later adjourned despite the absence of a quorum caused by the subsequent withdrawal of any of those present.

Section 4.12 The Board may act by written consent as provided in the Act.

Section 4.13 On a matter requiring immediate action by the Board, the Board may be polled without a meeting and action taken as instructed by the Board. Such action shall be ratified at the next regular Board meeting.

Section 4.14 No Director shall receive compensation from the Association for acting as such unless approved by a majority of the total Member votes.

ARTICLE V
POWERS AND DUTIES OF THE BOARD

Section 5.1 All corporate powers shall be exercised by or under the authority of, and the affairs of the Association managed under the direction of, the Board.

Section 5.2 The Board shall adopt organizational plans, policies, guidelines and rules and regulations for the administration of Association affairs as set forth in the Covenants. The Board shall be responsible for establishing an annual budget, imposing assessments and collecting assessments from the Members, all as more specifically set forth in the Covenants. The Board shall have the power to take all other actions permitted or required by the Act, the Covenants, the Charter, the By-Laws, the Use and Design Restrictions and the Architectural Guidelines.

Section 5.3 The Board shall establish and levy assessments approved by the Members to pay for the services provided by the Association, set up reserves for future major repairs or replacement of facilities, and establish collection procedures.

Section 5.4 The Board shall request independent internal examination and evaluation of both financial and operational records and procedures periodically to assure the adequacy of systems, controls and operating policies. The Board may also require an annual audit of the Association's financial records and procedures by a certified public accounting firm.

Section 5.5 The Board shall adopt the Rules and Regulations and the Contractor Rules to govern the use of the Common Areas and the conduct of all who reside, visit or work at Overton Retreat while using the Common Areas.

Section 5.6 The Board shall have the authority to:

5.6.1 Suspend the rights and privileges of Members who are delinquent in payment of annual or special assessments, and terminate any general services rendered by the Association to such Member;

5.6.2 File a lien against the property of Members who are delinquent in the payment of assessments; and

5.6.3 Take legal action against Members who are delinquent in the payment of assessments or who are in violation of the Covenants, the Use and Design Restrictions or the Rules and Regulations.

Section 5.7 The Board shall implement the following procedures to resolve violations of the Covenants, Rules and Regulations, Contractor Rules, Architectural Guidelines and Use and Design Restrictions that are not under the jurisdiction of the Architectural Review Committee:

5.7.1 Notice will be sent to the Owner, stating the nature of the problem and requesting correction of the problem;

5.7.2 If the violation is not corrected within one (1) week, a second notice will be sent;

5.7.3 If, after another week, the problem is still not corrected, the Board or its authorized designee will notify the Owner in writing and, through direct contact, will attempt to resolve the

issue informally. If this is unsuccessful and the matter is not resolved, the Board or its authorized designee may impose a fine of up to One Hundred and No/100 Dollars (\$100.00) for each period that the problem continues (a period may be no less than one week). The Owner must be notified of the fine in writing.

5.7.4 At the next Board meeting (either the next regularly scheduled or special meeting), the Owner charged with the violation, Association management, and others who have information about the dispute will be allowed to provide input, written and/or oral. The parties will attempt to resolve the issue at this meeting. If the issue is not resolved, the Board will vote, and, if a majority of the Directors agrees, the fine previously levied will be upheld and payable within seven (7) days of the Board meeting. After the Owner has been notified by certified mail that the violation remains uncorrected, for each period an additional fine of up to One Hundred and No/100 Dollars (\$100.00) may be assessed. The power to impose fines is in addition to all other rights and remedies to which the Association otherwise may be legally entitled.

5.7.5 Once the decision to impose a fine has been approved by the Board, either the Board or the Owner can request that the violation and the fine be submitted to mediation in Nashville, Tennessee, administered either (a) by the American Arbitration Association under its Commercial Mediation Rules or (b) as otherwise agreed by the Association and the Owner. The cost of mediation will be divided equally between the Association and the Owner. All fines will be suspended during the period between agreement to mediate and completion of the mediation process.

5.7.6 If the fine is not paid within two (2) weeks of its imposition and the mediation process is not initiated or is unsuccessful, then the process of placing a lien on the Owner's property may be initiated and the fining process will continue until the violation is corrected.

Section 5.8 The Board shall implement the following procedures to resolve violations of the Covenants, Rules and Regulations, Contractor Rules, Architectural Guidelines and Use and Design Restrictions that are under the jurisdiction of the Architectural Review Committee:

5.8.1 Within ten (10) days after the discovery of a violation, the Owner will be notified both by telephone (if telephone contact is possible) and in writing, with copies to the builder and architect, stating the nature of the problem and requesting a response from the Owner within five (5) business days of the receipt of the notice.

5.8.2 If the Owner has not responded after five (5) business days, a "stop work" order will be issued and a violation notice will be posted on the property.

5.8.3 Within the following twenty (20) working days, either the violation must be corrected or a plan to correct the violation must be approved by the Architectural Review Committee. If the violation is not corrected, or an acceptable plan to correct the violation is not approved within the twenty (20) working days, the Architectural Review Committee may recommend a fine and the matter will be referred to the Board for review at the next regularly scheduled or special meeting.

5.8.4 At the next Board meeting (either the next regularly scheduled or special meeting), the Owner charged with the violation, Association management, and others who have information about the dispute will be allowed to provide input, written and/or oral. The parties will attempt to resolve the issues at this meeting. If the issue is not resolved, the Board will vote, and if a majority of the Directors agrees, a fine, payable within seven (7) days, may be assessed by the Association.

If the violation involves failure to complete new construction according to the plans approved by the Architectural Review Committee within one (1) year (the Architectural Review Committee will grant extensions in cases where construction delays require additional time), or if the violation involves unapproved changes to the external appearance of an existing structure, such as adding a room or enclosing a porch, a fine of up to One Hundred and No/100 Dollars (\$100.00) per period (a period will not be shorter than one day) may be assessed until the violation is corrected or a remediation plan is approved. If the violation involves unapproved changes such as color of paint, roof, fences, statuary, antennas or the removal of trees from a building site, a fine of up to One Hundred and No/100 Dollars (\$100.00) per period (a period will not be shorter than one week), will be assessed until the violation is corrected or a remediation plan is approved. If the remediation plan is not implemented as agreed, then the fines will continue to be levied. The power to impose fines is in addition to all other rights and remedies to which the Association otherwise may be legally entitled.

5.8.5 Once the decision to impose a fine has been approved by the Board, either the Board or the Owner can request that the violation and the fine be submitted to mediation in Nashville, Tennessee, administered either (a) by the American Arbitration Association under its Commercial Mediation Rules or (b) as otherwise agreed by the Association and the Owner. The cost of mediation will be divided equally between the Association and the Owner. All fines will be suspended during the period between agreement to mediate and completion of the mediation process.

5.8.6 If the fine is not paid within two (2) weeks of its imposition and the mediation process is not initiated or is unsuccessful, then the process of placing a lien on the Owner's property may be initiated and the fining process will continue until the violation is corrected.

Section 5.9 At any time after the Board has notified a Member of violation of any of the Covenants, Rules and Regulations, Contractor Rules, Architectural Guidelines or Use and Design Restrictions and such violation has not been cured within any applicable notice and cure period, the Board shall have the authority to have the violation cured at the expense of the Member. The cost charged to the Member shall equal the actual cost incurred by the Association to cure the violation, plus an administrative charge equal to twenty percent (20%) of such amount.

ARTICLE VI **OFFICERS**

Section 6.1 The Association shall have a president, a treasurer and a secretary, and such vice presidents, assistant secretaries, assistant treasurers and other officers as the Board deems appropriate. The president, any vice presidents and the treasurer shall be members of the Board.

Section 6.2 Officers shall be appointed at a the first Board meeting following each annual meeting of the Members, and shall serve at the pleasure of the Board. Each officer shall have the authority and perform the duties prescribed by the Board, in addition to any prescribed herein.

Section 6.3 The president shall preside at all meetings of the Board, shall assure that all policies and directives of the Board are carried out, and shall sign all contracts, notes, leases, mortgages, deeds and other written instruments on behalf of the Association. The president shall serve as chair of the Board and its Executive Committee (if any), and may serve as an *ex officio* member of any committee.

Section 6.4 Each vice president shall have the authority and perform the duties of the president in his or her absence, and shall have any other authority and perform any other duties delegated by the president.

Section 6.5 The secretary shall be the corporate secretary of the Association and *ex officio* secretary of the Board. The secretary shall record all Board and Association votes and maintain and preserve the minutes of the proceedings of all meetings of the Board and the Association and all resolutions adopted by the Board and the Association. The secretary also shall maintain a current list of Members and their physical (and electronic, if applicable) addresses. Each assistant secretary shall have the authority and perform the duties of the secretary in his or her absence, and shall have any other authority and perform any other duties delegated by the secretary.

Section 6.6 The treasurer shall be the primary financial officer of the Association and shall be responsible for funds management in accordance with policies approved by the Board. In addition, the treasurer shall (a) report the financial condition of the Association to the Board at least quarterly and to the Members at the annual meeting, (b) chair any Board finance committee, if created, and (c) upon request, consult with the Board audit committee, if created, regarding selection or evaluation of independent accountants.

Section 6.7 Officers may resign or be removed from office as provided in the Act.

ARTICLE VII **COMMITTEES**

Section 7.1 **Committees Generally.** Committees of the Association shall be established and constituted by the Board, subject to the Act, the Declaration, the Charter and these Bylaws.

Section 7.2 **Executive Committee.** The Board may establish and constitute an Executive Committee that shall consist of the president and not less than two other Board members. The secretary shall be an *ex officio* member of this committee. The Executive Committee shall have the power and authority to decide on matters requiring Board action between regular meetings of the Board. Actions of the Executive Committee must be either ratified, changed or rescinded at the next regular Board meeting.

Section 7.3 **Architectural Review Committee.** The Board shall establish and constitute an Architectural Review Committee as provided in the Covenants. The Architectural Review Committee shall have such authority, powers, jurisdiction and responsibilities set forth in the Covenants and as otherwise designated by the Board from time to time. Members of the Architectural Review Committee need not be Members of the Association.

Section 7.4 **Planning Committee.** The Board shall establish and constitute a Planning Committee consisting of no fewer than three (3) nor more than seven (7) natural persons, a majority of which shall be Members and at least one of whom must be a Board member. Within the scope of the authority and budgetary limitations prescribed by the Board, the Planning Committee shall develop and implement plans for capital projects and other similar initiatives of the Association.

Section 7.5 **Maintenance Committee.** The Board shall establish and constitute a Maintenance Committee consisting of no fewer than three (3) nor more than seven (7) natural persons, a majority of which shall be Members and at least one of whom must be a Board member. Within the scope of the

authority and budgetary limitations prescribed by the Board, the Maintenance Committee shall be responsible for the maintenance, repair and replacement of the Association's properties.

Section 7.6 Other Committees. The Board from time to time may establish, constitute and terminate any other or further committees as it shall deem necessary or desirable.

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**CHARTER
OF
OVERTON RETREAT OWNERS ASSOCIATION, INC.**

EXHIBIT "C"
FILED
RECEIVED
STATE OF TENNESSEE

Pursuant to the provisions of the Tennessee Nonprofit Corporation Act, the undersigned person adopts the following charter:

JUN 18 PM 3: 53
RILEY DARNELL
SECRETARY OF STATE

ARTICLE I
Name of Corporation

The name of the corporation is Overton Retreat Owners Association, Inc.

ARTICLE II
Mutual Benefit Corporation

This corporation is a mutual benefit corporation.

ARTICLE III
Not For Profit

The corporation is not for profit.

The corporation is formed to promote the health, safety, and welfare of the residents of Overton Retreat Residential Community, located in Warren and, possibly, Van Buren Counties, Tennessee, in accordance with recorded plats thereof and such additions thereto as hereafter may be brought within the jurisdiction of this corporation (hereinafter collectively referred to as the "Properties") and for this purpose to: (a) own, acquire, build, operate, and maintain recreational parks, playgrounds, lakes, gazebos, swimming pools, utilities, common streets, foot paths, structures, and other properties designed for the common use of the members of this corporation (hereinafter collectively referred to as the "Common Areas"); (b) fix assessments or charges to be levied against the Properties and pay expenses in connection with the ownership, operation, and maintenance thereof, including taxes, if any, with respect to the Common Areas; (c) enforce any and all covenants, conditions, easements, and restrictions pertaining to the Properties (collectively, the "Covenants") and any and all rules and regulations imposed upon the Properties or any portions thereof (collectively, the "Rules"), in accordance with this Charter, the Bylaws of the corporation, and any recorded instruments, all as amended from time to time; and (d) insofar as permitted by law, to do any other thing that, in the opinion of the Board of Directors of this corporation, will promote the common benefit and enjoyment of the residents of the Properties.

ARTICLE IV
Initial Registered Agent

The complete street address of the initial registered agent of the corporation in the State of Tennessee is: Suite 2100, 511 Union Street, Nashville, Davidson

County, Tennessee 37219. The name of the initial registered agent to be located at that address is Barrett B. Sutton, Jr., Esq.

ARTICLE V
Incorporator

The name and address of the incorporator of the corporation are: Barrett B. Sutton, Jr., c/o Waller, Lansden, Dortch & Davis, Suite 2100, 511 Union Street, Nashville, Davidson County, Tennessee 37219.

ARTICLE VI
Principal Office

The complete street address of the initial principal office of the corporation is 4009 Aberdeen Road, Nashville, Davidson County, Tennessee 37205.

ARTICLE VII
Authority

The corporation shall have the power and authority to carry on any activities permitted by, and to exercise all of the powers and rights conferred by, the Tennessee Nonprofit Corporation Act, as amended from time to time or any successor provisions thereto.

ARTICLE VIII
Members

The corporation shall have two (2) classes of members, as follows:

(a) Class "A" Members. Every person or entity, other than Overton Mountain Development Partnership, a Tennessee general partnership ("Overton Partnership"), who is a record owner of a fee or undivided fee interest in any lot within the Properties (each, a "Lot") which is subject, by Covenants of record, to assessment by the corporation shall be a Class "A" Member of the corporation: provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member of this corporation.

(b) Class "B" Member. Overton Partnership, and its successors and assigns, shall be the sole Class "B" Member of the corporation.

The Class "A" Members and the Class "B" Member may be referred to collectively hereinafter as the "Members," or, individually, as a "Member." The voting rights of the Class "A" Members and the Class "B" Member shall be as set forth in the Covenants; provided, however, that whenever the vote of the combined membership is required by the Members, rather than the vote of each class of membership, then the Class "B" Member shall be entitled to cast three (3) votes for each Lot owned and each Class "A" Member shall be entitled to one (1) vote for each Lot owned.

The corporation shall have no capital stock.

Record Book 28 Pg 651

ARTICLE IX
Board of Directors

The affairs of the corporation shall be managed by a Board of Directors. Persons serving on the Board of Directors need not be Members of the corporation. The first Board of Directors shall serve until their successors shall have been elected and qualified.

During any period in which the Class "B" Member owns any portion of the Properties (the "Class "B" Control Period"), the Board of Directors shall consist of between one (1) and nine (9) persons who shall be elected solely by the Class "B" Member. The size of the Board of Directors during the Class "B" Control Period shall be determined by the Class "B" Member. If not sooner terminated as provided herein or as provided in any instrument recorded by the Overton Partnership in the Register's Office for Warren County, Tennessee, the Class "B" Control Period and the Class "B" membership shall terminate on the date which is twenty (20) years from the date this Charter is filed with the Tennessee Secretary of State.

After expiration or termination of the Class "B" Control Period, the number of Directors shall be nine (9) who shall be elected by the Class "A" Members, three (3) of whom shall be elected to serve for one (1) year, three (3) of whom shall be elected to serve for two (2) years, and three (3) of whom shall be elected to serve for three (3) years. At each annual meeting after election of the first Board of Directors by the Class "A" Members, the Class "A" Members shall elect three (3) directors, each to serve for a term of three (3) years.

ARTICLE X
Action on Written Consent

Whenever the Board or the Members are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, if all of the persons entitled to vote thereon consent to the taking of action on written consent without a meeting. Any such action shall be as valid and effective as any resolution duly adopted at a meeting of the Board or the Members, as appropriate.

ARTICLE XI
Distribution of Assets on Dissolution

Upon dissolution of the corporation, the assets, both real and personal, of the corporation shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they are required to be devoted by the corporation.

In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. No such

disposition of corporation properties shall be effective to divest or diminish any right or title of any Member vested in him, her, or it under the recorded Covenants and deeds applicable to the Properties, unless made in accordance with the provisions of such Covenants and deeds.

ARTICLE XII **Limitation of Liability**

(a) To the fullest extent that the Tennessee Nonprofit Corporation Act, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, a director of the corporation shall not be personally liable to the corporation or third parties for monetary damages for a breach of fiduciary duty as a director, except for liability: (i) for any breach of the director's duty of loyalty to the corporation; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or (iii) under Section 48-58-304 of the Tennessee Nonprofit Corporation Act, as the same exists or hereafter may be amended. If the Tennessee Nonprofit Corporation Act hereafter is amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the corporation, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by the amended Tennessee Nonprofit Corporation Act. This Article XII shall not eliminate or limit the liability of a director for any prior act or omission, if such a limitation or elimination of liability of a director for such prior act or omission is prohibited by the Tennessee Nonprofit Corporation Act as then in effect. Any repeal or modification of this Article XII shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of the corporation existing at the time of such repeal or modification.

(b) The corporation shall have the power to indemnify any director, officer, employee, agent of the corporation, or any other person who is serving at the request of the corporation in any such capacity with another corporation, partnership, owner's association, neighborhood association, joint venture, trust, or other enterprise (including, without limitation, any employee benefit plan) to the fullest extent permitted by the Tennessee Nonprofit Corporation Act, as it exists on the date hereof or as it may hereafter be amended. Any such indemnification shall continue as to any person who has ceased to be a director, officer, employee, or agent and shall benefit the heirs, executors, and administrators of such a person.

(c) By action of its Board of Directors, notwithstanding any interest of the directors in the action, the corporation may purchase and maintain insurance, in such amounts as the Board of Directors deems appropriate, to protect any director, officer, employee, or agent of the corporation or any other person who is serving at the request of the corporation in any such capacity with another corporation, partnership, owner's association, neighborhood association, joint venture, trust, or other enterprises (including, without limitation, any employee benefit plan) against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such (including, without limitation, legal expenses, judgments, fines, and amounts paid in settlement) to the fullest extent permitted by the Tennessee Nonprofit Corporation Act as it exists on the date hereof or as it may hereafter be amended, and whether or not the corporation would have the power or

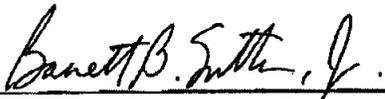
would be required to indemnify such person under the terms of any agreement or bylaw of the corporation. For purposes of this paragraph (c), "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan.

ARTICLE XIII
Amendment to Charter

This Charter may be amended in accordance with the provisions of the Bylaws, the Covenants, and applicable statutory law; provided that the voting and quorum requirements specified for any action by Member vote under any provision of this Charter shall apply also to any amendment of such provision, and provided further that no amendment shall be effective to impair or dilute any rights of Members that are governed by the recorded Covenants applicable to the Properties (as for example, membership and voting rights) which are part of the property interest created thereby. Without limitation, any rights granted to the Class "B" Member by the Covenants shall supercede any inconsistent provisions of this Charter or the Bylaws of the corporation.

This Charter is submitted for the corporation by its incorporator to be effective when filed by the Tennessee Secretary of State.

Dated: June 18, 2002.



Barrett B. Sutton, Jr., Incorporator

State of Tennessee



Department of State
Corporate Filings
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

For Office Use Only

ARTICLES OF AMENDMENT
TO THE CHARTER
(Nonprofit)

Corporate Control Number (If Known) 000428765

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:
Overton Retreat Owners Association, Inc.

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

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: SEE ATTACHED ADDENDUM

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 _____ (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.

President
Signer's Capacity

Signature

Date

David P. Bohman, President
Name of Signer (typed or printed)

ADDENDUM
to
Articles of Amendment to the Charter
of
Overton Retreat Owners Association

1. **The third paragraph of Article IX (Board of Directors) of the charter is amended to read as follows:**

After expiration or termination of the Class "B" Control Period, the number of members of the Board of Directors shall be determined by the Board of Directors but shall be no fewer than three (3) nor more than nine (9), and directors shall be elected solely by the vote of the Class "A" Members.

2. **Article X (Action on Written Consent) of the charter is amended to read as follows:**

The Board may act by written consent, and the Members may act by written consent or by written ballot, in each case as provided in the Act.