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**DECLARATION  
 FOR  
 RESIDENCES AT MONTAGUE PARK II,  
 A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS**

**THIS DECLARATION FOR RESIDENCES AT MONTAGUE PARK II, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS** (this "Declaration") is hereby made and entered into by **MONTAGUE GP**, a Tennessee general partnership (the "Developer").

**WITNESSETH:**

cc 41370

WHEREAS, the Developer is the owner of certain real property located in Hamilton County, Tennessee, and described on **Exhibit A** attached hereto; and

WHEREAS, the Developer desires to submit the above described parcel of real estate, together with all buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or in any way pertaining thereto, to the provisions of the Horizontal Property Act of the State of Tennessee, Tenn. Code Ann. § 66-27-101 thru 123 (the "Act", as hereinafter defined), for the express purpose of establishing thereon a horizontal property regime with private elements, to be known as Residences at Montague Park II; and

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

NOW, THEREFORE, the Developer declares as follows:

**Book and Page GI 12364 770****ARTICLE 1  
DEFINITIONS; SUBMISSION TO THE ACT****Section 1.1. Definitions.** As used herein, unless the context otherwise requires:

- (a) "Act" means the Horizontal Property Act of the State of Tennessee, Section 66-27-101 thru 123, Tenn. Code Ann.
- (b) "Association" means Montague Townhome Association, a Tennessee mutual benefit corporation. The Charter of the Association is attached hereto as **Exhibit C**.
- (c) "Board" means the Board of Directors of the Association.
- (d) "Buildings" means the buildings located on the Parcel (as defined herein) and forming part of the Property and containing the Units.
- (e) "Bylaws" means the Bylaws of the Association, attached hereto as **Exhibit B** and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in this Declaration dealing with the administration and maintenance of the Property shall be deemed to be a part of the Bylaws.
- (f) "Common Elements"/"General Common Elements" means all real and personal property within the Property other than the Units (which include the Private Elements). The Common Elements shall be held by the Association for the common use and enjoyment of the Unit Owners. The Common Elements shall include, but shall not be limited to lawns, open areas, streets, roadways, bridges, culverts, parking areas, drainage structures and facilities, ponds, waterways, fences, sidewalks, curbs, gutters, signs, lights, utilities, clubhouses, pools and other improvements.
- (g) "Deed of Trust" shall include a mortgage, and a "deed of trust beneficiary" shall include a mortgagee and a holder of a deed of trust.
- (h) "Developer" means MONTAGUE, GP, a Tennessee general partnership, its successors and assigns, provided such successors or assigns are designated in writing by Developer as a successor or assign of the rights of Developer set forth herein.
- (i) "Limited Common Elements" means any Common Elements contiguous to and serving a single Unit or a certain number of Units to the exclusion of other Units, as an inseparable appurtenance thereto, the enjoyment, benefit or use of which is reserved to the lawful Occupants of such Unit or Units either in this Declaration, on the Plat, or by later decision of all of the Unit Owners, such as porches and decks serving a single Unit, a shared/party wall, and driveways serving particular Units.
- (j) "Majority" or "majority of the Unit Owners" means the owners of more than fifty percent (50%) of the voting rights of the Unit Owners.
- (k) "Declaration" means this instrument, as amended from time to time.
- (l) "Occupant" means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.
- (m) "Parcel" means the parcel or tract of real estate described on **Exhibit A** attached to this Declaration.
- (n) "Person" means a natural individual, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.
- (o) "Plat" means the survey/drawing of the Parcel submitted to the provisions of the Act showing the number of each Unit, expressing its area, location and other data necessary for identification, with said Plat being attached hereto as **Exhibit A-1**. The Developer reserves the right to amend the Plat from time to time without the consent of the Unit Owners or the Association until all of the Units have been sold or leased.

**Book and Page GI 12364 771**

- (p) "Private Elements" means and includes the land upon which each Unit is located and the improvements now or hereafter located thereon. Exclusive ownership in fee simple and use of the Private Elements for each Unit is reserved to such Unit. The area of the Private Elements for each shall include the roof, the exterior perimeter walls, the middle of interior demising walls, exterior doors, windows, and window frames and sash, any separate furnace, air conditioner, or water heater located within or adjacent to a Unit and serving only such Unit, any pipes, ducts, electrical wiring and electrical conduits located entirely within a Unit and serving only such Unit.
- (q) "Property"/"Development" means all the land and space comprising the Parcel, and all improvements and structures thereon, including the Buildings and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.
- (r) "Record" or "recording" refers to the record or recording in the Register's Office for Hamilton County, Tennessee.
- (s) "Unit" means a portion of the Property designated for separate ownership and shall include the Private Elements and improvements now and hereafter located thereon. The Units are identified by number on the Plat and may be held and conveyed by reference to such number. Conveyance of a Unit shall automatically convey the undivided membership of each Unit Owner in the Association. Any Unit may be jointly or commonly owned in any estate recognized under applicable law. The term "Unit" as used in this Declaration shall have the same meaning as the term "apartment" as used in the Act.
- (t) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit, and shall be deemed the same as a "co-owner" under the Act. Unless specifically provided otherwise herein, the Developer shall be deemed a Unit Owner so long as it is the title holder of any Unit.

**Section 1.2. Submission of Property to the Act.** The Developer, by recording this Declaration, hereby submits and subjects the Property, and all rights and privileges belonging or in any way pertaining thereto, to the provisions of the Act, and hereby establishes a horizontal property regime with private elements as authorized and described in the Act and to be hereafter known as Residences at Montague Park II. The required Attorney's Certificate is attached hereto as **Exhibit D**.

**Section 1.3. Plat.** The Plat sets forth the numbers, areas, locations, and other data as required by the Act.

**Section 1.4. Units.** The legal description of each Unit shall consist of the identifying number of such Unit as shown on the Plat. Every deed, lease, deed of trust or other instrument shall legally describe a Unit by its identifying number as shown on the Plat, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise, subdivide or in any other manner cause such Owner's Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat.

**Section 1.5. Unit Use and Occupancy Restrictions.** Subject to the provisions of the Bylaws, no part of the Property may be used for purposes other than housing and the related common purposes for which the Property was designed and as allowed by municipal zoning laws. Each Unit shall be used as a residence or such other use permitted by this Declaration, and for no other purposes, subject to the rule and regulations of the Association. The foregoing restrictions as to residence shall not, however, be construed in such a manner as to prohibit a Unit Owner from (a) keeping personal business records or accounts, (b) handling personal business or professional records or accounts. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said restrictions. No Unit may

**Book and Page GI 12364 772**

be used in violation of the restrictions contained herein or in the Bylaws.

**Section 1.6. Separate Taxation of Units.** Each of the Units constructed on the Property shall be separately taxable and alienable residential dwellings. It is the Developer's intent that by the filing of this Declaration the Units existing on the Property be divided by the Hamilton County Property Assessor into separately taxed parcels, and that the Units may be sold or transferred to and owned by separate owners or groups of owners. In the event that such taxes for any year are not separately taxed to each Unit Owner, but rather are taxed on the Property as a whole, then each Unit Owner shall pay their proportionate share thereof in accordance with their respective percentage of ownership interest in the Common Elements, and, in said event, such taxes shall be a common expense.

**Section 1.7. Not a Condominium.** The Developer specifically states that the intention of this Declaration is not to create a Condominium, as set out in Tenn. Code Ann. § 66-27-201 *et seq.*, but rather a Horizontal Property Regime with Private Elements as set out in the Tennessee Horizontal Property Act, Tenn. Code Ann. § 66-27-101 through 123.

## ARTICLE II

### THE ASSOCIATION, AND ADMINISTRATION AND OPERATION OF THE PROPERTY

**Section 2.1. Authority.** The business affairs regarding any Common Elements of the Development shall be managed by the Association. The Association shall be the governing body for all of the Unit Owners and shall be operated to provide for the maintenance, repair, replacement, administration, operation and care of the Property as provided in the Act, this Declaration and the Bylaws attached hereto as **Exhibit B**.

**Section 2.2. Powers.** The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs regarding any Common Elements of the Property other than those matters designated as being the responsibility of the Unit Owner, as set out herein, so long as the Act does not provide to the contrary.

**Section 2.3. Membership Interest in the Association.** The Unit Owners shall each be members of the Association, with each Unit holding an undivided membership interest in the Association which shall be appurtenant to such Unit, each such membership interest appurtenant to a Unit being in and equal share, subject to the provisions concerning voting hereinafter set forth. The percentages of ownership interests shall remain constant, subject to any rights retained by the Developer, and may only be changed by recorded amendment to this Declaration consented to in writing by the Unit Owners, in accordance with the requirements herein contained. Said ownership interest shall be an undivided interest, and the undivided membership interests in the Association shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership. The ownership of each Unit shall not be conveyed separate from the percentage of ownership in the Association corresponding to said Unit. The undivided percentage of ownership in the Association corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the fee title to that Unit.

**Section 2.4. Bylaws and Operation of the Association.** The Bylaws for the Association shall be the Bylaws attached to this Declaration as **Exhibit B** and made a part hereof. The Board of Directors of the Association shall be elected and shall serve in accordance with the provisions of the Bylaws. The fiscal year of the Association shall be determined by the Board within the confines of applicable law, and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the use and benefit of Unit Owners in accordance with the provisions of the Declaration and Bylaws. Each Unit

**Book and Page GI 12364 773**

Owner shall be a member of the Association so long as such Owner is a Unit Owner. A Unit Owner's membership shall automatically terminate when such Owner ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall automatically succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be divided among the respective Unit Owners, with one (1) vote granted to each Unit.

**Section 2.5. Contracting with a Managing Agent.** The Board shall have the authority to engage the services of an agent (herein sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Property, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of Subsection (c) below. The Board shall require that such Managing Agent have fidelity bond coverage on its employees handling Association funds. The cost of such services shall be a common expense, as defined in **Article IV**, below. The first Board, appointed as provided herein, shall ratify and approve any Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property, for a term as approved by said first Board, but not to exceed one (1) year.

**Section 2.6. Board's Determination Binding.** In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions of interpretation or application of the provisions of the Declaration or Bylaws, the determination thereof by the Board shall be final and binding on each and all such Unit Owners.

**Section 2.7. Non-Liability of the Directors, Board, Officers and Developer.** Neither the directors, Board, officers of the Association, nor the Developer shall be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors, Board, officers, or Developer, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the directors, Board, officers, or Developer, and their respective heirs, personal and legal representatives, successors and assigns in accordance with, and as provided in, the Charter of the Association and Bylaws.

**Section 2.8. Interest of Association in Common Elements.** Ownership of the Common Elements shall be vested in the Association.

**Section 2.9. Association's Right to Purchase at a Foreclosure Sale.** The Board shall have the power and authority to bid and purchase, for and on behalf of any Unit, or interest therein, at a sale pursuant to a deed of trust foreclosure, a foreclosure of the lien for common expenses under the Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Unit Owners owning not less than three-fifths (3/5) of the total voting rights of the Unit Owners. Such consent shall set forth a maximum price which the Board or its duly authorized agent may bid and pay for said Unit.

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

**ARTICLE III  
COMMON ELEMENTS**

**Book and Page GI 12364 774**

**Section 3.1. Allocated Interests.** The undivided interest in the Common Elements and the Common Expenses are allocated to the Association, and may be done so by separate deed, if deemed necessary. Voting rights in the Association shall be allocated equally to the owners of each Unit, with each such owner having a single vote. The Common Elements shall remain undivided and shall not be the subject of an action for partition. Each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, as may be required for the purposes of access and ingress to, egress from, use, occupancy, and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall be subject to and governed by the provisions of the Declaration, Bylaws and the reasonable rules and regulations of the Association. No Unit Owner shall be exempt from payment of their proportionate share of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of their Unit.

**Section 3.2. Use of the Common Elements.** Except as hereinafter set forth, each Unit Owner shall have the right to use the Common Elements, except the Limited Common Elements, in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to each Unit Owner, and such Owner's agents, servants, tenants, family members, customers, invitees and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Private Elements attributable to the Unit and the right to exclusive use of the Limited Common Elements contiguous to and serving such Unit alone or with adjoining Units, including patios, porches and decks serving a single Unit. Such rights to use the Common Elements shall be subject to and governed by the provisions of the Act, Declaration, Bylaws, and any rules and regulations established by the Association. In addition, the Association shall have the authority to lease, grant concessions or grant easements with respect to parts of the Common Elements, for the proper maintenance, operation, or benefit of the horizontal property regime, subject to the provisions of the Declaration and Bylaws. All income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe. No Common Elements may be used in violation of the restrictions contained herein or in the Bylaws.

**Section 3.3. Encroachments and Easements.** If any portions of the Common Elements shall actually encroach upon any Unit or Private Elements, or if any Unit or Private Elements shall actually encroach upon any portions of the Common Elements, or if any Unit or Private Elements shall actually encroach upon another Unit or Private Elements, as the Common Elements, Units and Private Elements are shown by the Plat, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

**Section 3.4. Rights Reserved.** A Unit Owner's right of enjoyment in the property commonly owned by the Association as herein created shall be subject to:

- (a) The right of the Association, as provided in its Bylaws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid, and for such period as it considers appropriate for any infraction of its published rules and regulations;
- (b) The right of the Association to charge reasonable fees for the use of the parts of the Common Elements;
- (c) The right of the Association to diminish in any way or to dedicate or transfer all or any part of the Common Elements to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no

**Book and Page GI 12364 775**

such diminution, dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless members of the Association entitled to cast two-thirds (2/3) of the total votes of members and the appropriate consent(s) of the other parties required herein, have all been recorded, agreeing to such act; and,

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

**ARTICLE IV  
COMMON EXPENSES**

**Section 4.1. Common Expenses.** Except as specifically provided otherwise herein, each Unit Owner shall pay that Unit Owner's proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Declaration and Bylaws (which expenses are herein sometimes referred to as "common expenses"), including, but not limited to, the maintenance and repair thereof and any and all replacements and additions thereto. Payment of common expenses, including any prepayment thereof required by any contract for a sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. No Unit Owner shall be exempt from payment of such Unit Owner's proportionate share of the common expenses by waiver or non-use of enjoyment of the Common Elements, or by abandonment of such Owner's Unit. If any Unit Owner shall fail or refuse to make any such payment of the common expenses when due, the amount thereof, together with interest thereon at the rate of ten percent (10 %) per annum, after said common expenses become due and payable, shall constitute a lien on the interest of such Unit Owner in the Unit as provided in the Act. Each assessment for common expenses against a Unit shall also be the personal obligation of the Unit Owner at the time the assessment is due. A successor in title to a Unit shall not be personally obligated to pay any unpaid assessments for common expenses which have been levied against a Unit unless such successor in title expressly assumes the payment of the same, provided, however, any lien encumbering a Unit as above described shall not be affected by transfer of a Unit.

**Section 4.2. Enforcement.** In the event any Unit Owner fails to maintain such Owner's Unit, including its Private Elements, or the Limited Common Elements attributable to such Unit, or in the event any Unit Owner fails to pay such Owner's proportionate share of any common expense when such is due, then in any such event the Board may after ten (10) days' notice to the defaulting Unit Owner, perform such maintenance, advance and pay such sums, or do any other reasonable act necessary to cure such default. The Association shall have a lien against the Unit of the defaulting Unit Owner securing payment of the sums expended, advanced, or due, and shall be entitled to enforce such lien by filing suit in a court of competent jurisdiction. In the event the Association is successful in such suit, it shall be entitled to recover reasonable attorney fees and costs incurred in such suit and enforcement of its rights. The lien granted to the Association may be foreclosed as other liens are foreclosed in the state of Tennessee. Failure by the Unit Owner or Unit Owners to pay any assessment, annual or special, on or before the due dates set by the Association for such payment shall constitute a default, and this lien may be foreclosed by the Association.

**Section 4.3. Deed of Trust Protection.** The lien for common expenses payable by a Unit Owner shall be subordinate to the lien of a recorded deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses which become due and payable from and after the date on which the beneficiary thereunder either takes possession of the Unit encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses on its deed of trust. This Section

**Book and Page GI 12364 776**

4.3 shall not be amended, changed, modified or rescinded without the prior written consent of all deed of trust beneficiaries of record.

**Section 4.4. Special Assessments.** In addition to the assessments for common expenses authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall be approved by a majority of the members of the Board.

**ARTICLE V  
DEVELOPER RIGHTS**

**Section 5.1. Turnover Date.** The Developer shall have the rights and obligations of Developer set forth in this Declaration for a period of time ending upon the date that Developer has sold one hundred percent (100.0%) of the Units, or such earlier time in Developer's sole discretion (the "Turnover Date"). Thus, Developer shall have control of the Board and the Development until the Turnover Date.

**Section 5.2. Use by Developer.** During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from the Buildings and Property as may be required for purposes of sale of the Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units, or as a sales office, and may maintain customary signs in connection therewith.

**Section 5.3. Developer Obligations and Rights Reserved.** Developer has the obligation to pay for and construct the Common Elements shown on the Plat, which construction shall be complete on or before the Turnover Date, but with the schedule of completion being at the sole discretion of the Developer. However, the Developer reserves the right to relocate, expand, modify, reduce, enlarge or extend existing parking areas, driveways and landscaped areas on the Property and to construct, relocate, expand, modify, reduce or extend sewers, utility lines or service connections in order to serve the Property and improvements located thereon.

**ARTICLE VI  
INSURANCE**

The Board shall have the authority to, and shall obtain insurance for the Property, including the Units and Private Elements, and the Common Elements, exclusive of the additions within, improvements to and decorating of the Units by the Unit Owners, against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Common Elements and the Buildings, and against such other hazards and for such amounts as the Board may deem advisable. Such insurance shall, if possible, include all or any portion of all Limited Common Elements. Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements, Units or any part thereof to substantially the same condition in which they existed prior to damage or destruction. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Board of the Association, as the trustee for each of the Unit Owners in direct ratio to said Unit Owner's respective percentage of ownership in the Association, as set forth in the Declaration, and for the holders of deeds of trust on his/her/their/its Unit, if any. The policy of insurance



**Book and Page GI 12364 777**

should also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for such Owner's Unit and such Owner's corresponding percentage of ownership in the Association.

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

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

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

## **ARTICLE VII MAINTENANCE, REPAIRS AND REPLACEMENTS**

**Section 7.1. Obligations of Unit Owners.** Each Unit Owner, at such Owner's expense, shall furnish and be responsible for all maintenance of, repairs to and replacements within the interior of such Owner's Unit, including plumbing, pipes, wiring, appliances, and structural components of the Unit. In addition, each Unit Owner shall be responsible for all exterior glass, windows, including storm windows, screens, and doors, including storm doors.

**Section 7.2. Obligations of Association.** The Association shall be responsible for maintenance of, repairs to and replacements within the Common Elements, including landscaping and yard maintenance, and, on the Units and Private Elements, the Association shall be responsible for (a) exterior landscaping; (b) repair, maintenance and replacement of walkways, porches, decks and balconies; (c) painting and non-structural maintenance and repair of roofs, siding, gutters, down-spouts, trim, caulking and other exterior repairs of a non-structural nature, provided that such exterior maintenance responsibilities shall not include glass, windows, including storm windows, screens and doors, including storm doors, which shall be the responsibility of the Unit Owner; and (d) replacement of roofs and siding, with the above Association responsibilities being at the timing and discretion of the Association. Other items of maintenance, repair and replacement in the Units shall be the responsibility of the Unit Owner. The cost

**Book and Page GI 12364 778**

of maintenance of, repairs to and replacements which are the responsibility of the Association shall be part of the common expenses, subject to the Bylaws, rules and regulations of the Association. Notwithstanding the foregoing, to the extent not covered by the Association's insurance, the expenses for the maintenance, repair or replacement of Private Elements shall be borne by the Owner of the Unit to which such Limited Common Elements are appurtenant and at the discretion of the Board, maintenance of, repairs to and replacements within the other Common Elements may be assessed in whole or in part to Unit Owners benefited thereby, and, further, at the discretion of the Board, the Board may direct Unit Owners who stand to be benefited by such maintenance of, repairs to and replacement within the Private Elements or Common Elements to arrange for such maintenance, repairs and replacement in the name and for the account of such benefited Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractors' and subcontractors' sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

**Section 7.3. Loss Attributable to Unit Owner.** Notwithstanding the foregoing, if, due to the act or neglect of a Unit Owner, or the agent, servant, tenant, family member, invitee, licensee or household pet thereof, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair or replacement are required which would otherwise be a common expense, then such Unit Owner shall pay for such damage or such maintenance, repair and replacements, as may be determined by the Association, to the extent not covered by the Association's insurance or sufficient proceeds are not collected from the insurance carrier. The authorized representative of the Association, Board or of the Managing Agent with approval of the Board shall be entitled to reasonable access to the individual Units, Private Elements and Limited Common Elements as may be required in connection with the preservation of any individual Unit, Private Elements or Limited Common Elements in the event of an emergency, or in connection with maintenance of, repairs or replacements within the Common Elements, Limited Common Elements or any equipment, facilities or fixtures affecting or serving the other Units, Common Elements, Limited Common Elements or Private Elements, or to make any alteration required by any governmental authority.

**ARTICLE VIII  
DEEDS OF TRUST; RIGHTS OF MORTGAGEES**

**Section 8.1 Deeds of Trust.** Each Unit Owner shall have the right, subject to the provisions herein, to make separate deeds of trust for such Unit Owners' respective Unit, including such Unit Owner's respective ownership interest in the Association. No Unit Owner shall have the right or authority to make or create, or cause to be made or created, from the date hereof, any deed of trust or other lien on or affecting the Property or any part thereof, except only to the extent of such Owner's Unit and the interest in the Association corresponding thereto.

**Section 8.2 Rights of Mortgagees.** Notwithstanding anything to the contrary contained in this Declaration or in the Bylaws of the Association, all terms, conditions, regulations, and requirements which are now existing, or which may be amended from time to time by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Home Loan Bank Board, pertaining to planned unit developments, horizontal property regimes, or townhomes, are hereby incorporated as terms and conditions of this Declaration and Bylaws and such shall be governing upon the Property, Developer, and the Association, so long as such terms or conditions are not inconsistent with the Act.

**ARTICLE IX**

**Book and Page GI 12364 779****ARCHITECTURAL CONTROL**

**Section 9.1. Architectural Control.** Unless specifically provided otherwise herein, no structure may be erected, placed or altered on any Private Elements, and no building permit may be obtained, until the construction plans and building specifications and a plan showing (i) the location of improvements on the Private Elements; (ii) the grade elevation (including rear, front and side elevations); (iii) the type of exterior material and roof material (including delivery of samples thereof); (iv) the color of paint or stain to be applied to any exterior surfaces and the color of the roof material (including delivery of samples thereof) shall have been approved in writing by the Developer, or any Architectural Control Committee designated by the Board.

**Section 9.2. Alterations, Additions or Improvements.** Except as specifically provided otherwise herein (including Section 9.3 below), no alteration of any Common Elements or Private Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as common expenses alterations, additions and improvements of the Common Elements as provided in the Bylaws. Any Unit Owner may make alterations, additions or improvements within the Unit of the Unit Owner without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Private Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

**Section 9.3. Decorating.** Each Unit Owner, at such Owner's expense, shall furnish and be responsible for all decorating within such Owner's Unit, its Private Elements and the Limited Common Elements serving such Unit. Unit Owners are required to install and maintain blinds in all windows that face a street.

**ARTICLE X  
REMEDIES**

In the event of any violation of the provisions of the Act, Declaration, Bylaws or rules and regulations of the Board or Association by any Unit Owner (either by the Unit Owner's own conduct or by the conduct of any other Occupant of such Owner's Unit) the Association, or its successors or assigns, or the Board, or its agent, shall have each and all of the rights and remedies which may be provided for in the Act, Declaration, Bylaws, or said rules and regulations, or which may be available at law or in equity, and may prosecute an action or other proceeding against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or the right to sell the Unit through judicial process as provided hereinbefore, or for any combination of remedies, or for any other relief. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of Ten percent (10 %) per annum until paid, shall be charged to and, assessed against such defaulting Unit Owner, and shall be added to and deemed part of such Owner's respective share of the common expenses, and the Board shall have a lien for all of the same, as well as for nonpayment of the Unit Owner's respective share of the common expenses, upon the Unit and ownership interest in the Association of such defaulting Unit Owner and upon all of such Owner's additions and improvements thereto and upon all of such Owner's personal property in such Owner's Unit or located elsewhere on the Property, provided, however, that such lien shall subordinate to the lien of a recorded deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of said common expenses which become due and payable from and after the date on which the said deed of trust beneficiary either takes possession of the

**Book and Page GI 12364 780**

Unit, accepts a conveyance of any interest therein (other than as a security) or files suit to foreclose its deed of trust. In the event of any such default by any Unit Owner, the Board and the manager or Managing Agent, if so authorized by the Board, shall have the authority to correct such default, and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of record of deeds of trust against Units.

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

If any Unit Owner (either by such Owner's conduct or by the conduct of any other occupant of his Unit) shall violate the Act, or any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and if such default or violation shall continue for 30 days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any 30 day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said defaulting Owner a notice in writing terminating the rights of the said defaulting Owner to continue as a Unit Owner and to continue to occupy, use or control such Owner's Unit, and thereupon an action in equity may be filed by the Board against said defaulting Owner for a decree of mandatory injunction against such defaulting Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Owner's right to occupy, use or control the Unit owned by him/her/it on account of said violation, and ordering that all the right, title and interest of said defaulting Owner in the Property shall be sold (subject to any existing deed of trust) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Owner from reacquiring such Owners interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to said defaulting Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide that the purchaser shall take the interest in the Unit ownership sold subject to this Declaration.

In addition to the other remedies provided for herein, in the event of a default by a Unit Owner in the payment of such Unit Owner's respective share of the common expenses which default continues for a period of 30 days, the Board shall have the power and authority to place such Unit Owner's name on a list of delinquent Unit Owners, which list may be posted at a place designated by the Board for notices.

**Book and Page GI 12364 781**

Any aggrieved Unit Owner shall also have all rights of action available in law or equity should another Unit Owner, or the Association, fail to comply with the requirements of the Declaration, Bylaws, or rules and regulations of the Association.

**ARTICLE XI  
AMENDMENTS**

**Section 11.1. Amendment by the Developer.** This Declaration may be amended, modified or revoked in any respect from time to time by the Developer prior to the Turnover Date.

**Section 11.2. Amendment after Turnover Date.** Thereafter, this Declaration may be amended in accordance with the following procedure:

- (a) An amendment to this Declaration may be considered at any annual or special meeting of the Association; provided, however, that, if considered at an annual meeting, notice of consideration of the amendment and a general description of the terms of such amendment shall be included in the notice of the annual meeting provided for in the Bylaws, and, if considered at a special meeting, similar notice shall be included in the notice of the special meeting provided for in the Bylaws. Notice of any meeting to consider an amendment that would adversely affect Mortgagees' rights shall also be sent to each Mortgagee listed upon the register of the Association. "Mortgagee" shall mean a beneficiary, creditor, or holder of a deed of trust, as well as a holder of a Mortgage.
- (b) At any such meeting of the members of the Association, the amendment must be approved by an affirmative seventy-five percent (75%) vote of those Owners who are in attendance or represented at the meeting. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws. Any amendment which adversely affects the rights of the Mortgagees must be approved by an affirmative seventy-five percent (75%) vote of the Mortgagees of which the Association has been properly notified (based upon one vote for each Unit on which a first-in-priority mortgage is held) and who vote within the period of time set by the Board (as defined in the Bylaws) to vote, which shall be at least ten (10) days and no longer than sixty (60) days.

**Section 11.3. Recording of Amendment.** An amendment adopted under Section 11.2, above, shall become effective upon its recording with the Hamilton County Register's Office, and the President of the Association and Secretary of the Association shall execute, acknowledge and record the amendment, and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of this Section; provided, that in the event of the disability or other incapacity of either, the Vice President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including, without limitation, any Mortgagee, prospective purchaser, tenant, lienor or title insurance company that the amendment was adopted in accordance with the provisions of this Section.

**Section 11.4. Developer Rights After Turnover Date.** Notwithstanding the above, the Developer shall have the right to make and record any necessary amendment to this instrument for the express purpose of completion of development or correction of clerical errors or as may be required to obtain approval for the horizontal property regime.

**ARTICLE XII  
NOTICES**

**Book and Page GI 12364 782**

Notices provided for in the Act, Declaration or Bylaws shall be in writing, and shall be addressed if to a Unit Owner, to the address of such Owner's Unit, and if to the Association or Board, as the case may be, to its registered office, as set forth in Charter of the Association, or to such other address as may be designated by the Association or Board from time to time. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may designate a different address for notices by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person with written acknowledgment of the receipt thereof.

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

**ARTICLE XIII  
RIGHTS AND OBLIGATIONS**

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

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

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

**ARTICLE XIV  
MISCELLANEOUS PROVISIONS**

**Book and Page GI 12364 783**

**Section 14.1. Condemnation.** In the event of a taking in condemnation or by eminent domain of a part of the Common Elements, the award made for such taking shall be payable to the Board for and on behalf of the Association.

**Section 14.2. Severability.** If any provision of the Declaration or Bylaws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the Bylaws and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration or the Bylaws shall be construed as if such invalid part was never included therein.

**Section 14.3. Trustee as Unit Owner.** In the event title to any Unit is conveyed to a land title holding trust, under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder shall be considered Unit Owners for all purposes and they shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit. No claim shall be made against any such title holder trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of any such lien or obligation shall continue to be a charge or lien upon the Unit and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfer of title to such Unit.

**Section 14.4. Party Walls.** Each wall built as a part of the original construction of a structure upon the Private Elements and placed on the dividing line between two Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be equally shared by the Unit Owners who make use of the wall, provided that the party causing any damage shall be responsible for the full cost thereof in accordance with applicable law.

**Section 14.5. Captions, Number, and Gender.** The captions used herein are for reference purposes only and shall not limit or broaden the meaning of any section. When used herein, the singular shall include the plural, the plural the singular, and the use of one gender shall apply to any gender.

[Remainder of Page Left Intentionally Blank; Signature Page Follows]

Book and Page GI 12364 784

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the 15 day of February, 2021.

**DEVELOPER:**

MONTAGUE, GP

By: [Signature]  
Name: Christopher Henegar  
Title: Partner

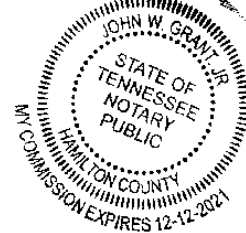
STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, a Notary Public in and for the state and county aforesaid, personally appeared Christopher Henegar, to me known (or proved to me on the basis of satisfactory evidence) to be a partner of MONTAGUE, GP, the within named bargainor, a Tennessee general partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of the general partnership by himself as such partner.

WITNESS my hand and seal, at office in Hamilton County, Tennessee this 15 day of February, 2021.

[Signature]  
NOTARY PUBLIC

My commission expires: 12-12-2021





**Book and Page GI 12364 785****JOINDER AND CONSENT OF LENDER**

Millennium Bank ("Lender") is the holder of a security interest in certain property subject to the foregoing Declaration for Residences at Montague Park II, a Horizontal Property Regime With Private Elements (the "Declaration") by virtue of the following (collectively, the "Security Documents"):

(i) a Deed of Trust recorded in Book 11885, Page 247, in the Register's Office of Hamilton County, Tennessee, executed by MONTAGUE, GP, a Tennessee general partnership, to Evan Allison, Trustee for Lender, in the original amount of \$1,992,000.00;

(ii) a UCC-1 Fixture Filing in favor of Lender recorded in Book 11885, Page 257, in the Register's Office of Hamilton County, Tennessee; and

(iii) any and all other documents and instruments evidencing, securing or in any manner relating to any and all indebtedness secured by any of the foregoing.

Lender in its limited capacity as holder of the Security Documents hereby consents to and joins in the execution and recording of the Declaration. It is the intent and agreement of the Lender, and the effect of this instrument, that the Declaration not be affected by a subsequent judicial or non-judicial foreclosure under the Security Documents, but rather that the Declaration shall remain in full force and effect after any such foreclosure. The execution by Lender of this Joinder and Consent shall not be deemed to diminish, impair, limit, repudiate or forgive any obligation of Developer under the Security Documents and Developer shall remain fully liable to Lender for the faithful performance of all obligations thereunder.

[signature on following page]

Book and Page GI 12364 786

IN WITNESS WHEREOF, Lender has caused this instrument to be executed on this 18 day of February, 2021.

**LENDER:**

MILLENNIUM BANK

By: mark watson

Name: [Signature]

Title: senior lender

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, a Notary Public, duly appointed, commissioned and qualified in and for the State of Tennessee, personally appeared MARK WATSON, with whom I am personally acquainted and who upon oath acknowledged herself/himself to be SENIOR LENDER of MILLENNIUM BANK, the within named bargainor, and that she/he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of MILLENNIUM BANK, by herself/himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal at office in said State and County on this 18 day of February, 2021.

[Signature]  
NOTARY PUBLIC

My Commission Expires:  
**My Commission Expires June 29, 2022**



## Book and Page GI 12364 787

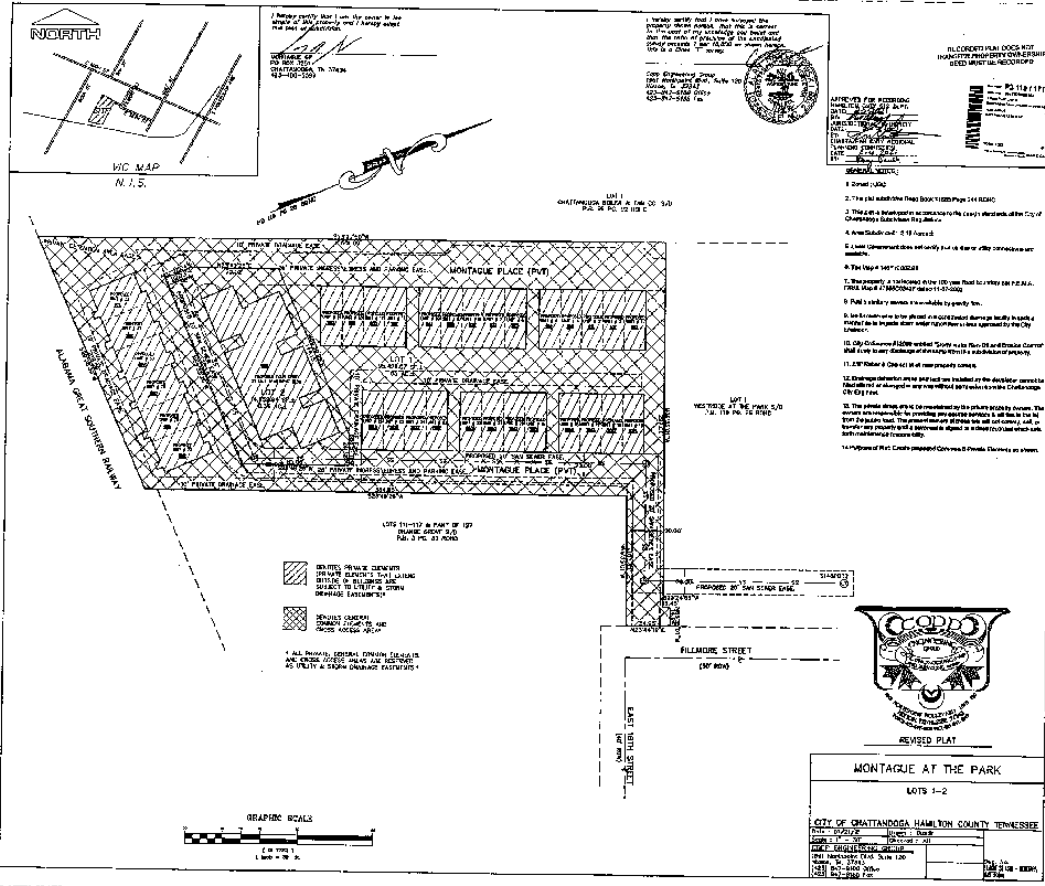
### **EXHIBIT A** **Legal Description**

Lot One (1) as shown on Revised Plat, Montague at the Park, Lots 1-2, recorded in Plat Book 119, Page 171, Register's Office of Hamilton County, Tennessee.

**Book and Page GI 12364 788**

**EXHIBIT A-1  
Plat**

[see attached]



**Book and Page GI 12364 790**

**EXHIBIT B  
Bylaws**

[see attached]

**Book and Page GI 12364 791****BYLAWS OF  
MONTAGUE TOWNHOME ASSOCIATION, INC.****ARTICLE I  
Members (Unit Owners)**

*Section 1. Eligibility.* The members of Montague Townhome Association, a Tennessee mutual benefit corporation (the "Association"), shall consist of the respective Unit Owners of Residences at Montague Park II (the "Property"), with each Unit Owner holding an undivided membership interest in the Association, with each such membership interest being in an equal share. These and other terms are used in these Bylaws as they are defined in the Declaration for Residences at Montague Park II, a Horizontal Property Regime with Private Elements (the "Declaration"), which Declaration is recorded in the Register's Office for Hamilton County, Tennessee. The words "member" or "members" as used in these Bylaws mean and shall refer to "Unit Owner" or "Unit Owners," as the case may be, as defined in the Declaration. If a Unit Owner is a land title holding trust under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary, then the member shall be said beneficiary of such trust.

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

*Section 3. Annual Meetings.* The annual meeting of Unit Owners shall be held at the time and place specified in the notice of such meeting, but such place shall be within five (5) miles of the Property. The annual meeting of Unit Owners shall be held on the sixtieth (60th) day following the end of the Association's fiscal year of each and every year, if not a legal holiday, and if a legal holiday, then on the next succeeding business day not a legal holiday. At the annual meeting, the Unit Owners shall elect Directors, receive reports on the activities and financial condition of the Corporation, and transact such other business as may properly come before the meeting.

*Section 4. Special Meetings.* The Association shall hold a special meeting of its Unit Owners upon the call of the Board of Directors or the President, or upon the written demand(s) to the Secretary by Unit Owners holding at least ten (10%) percent of all votes entitled to be cast on any issue to be considered at the proposed special meeting. Any call or demand for a special meeting shall describe the purpose(s) for which the special meeting is to be held. Only business within the purpose(s) described in the meeting notice for the special meeting may be conducted at such meeting.

*Section 5. Notice of Meetings.* The Association shall notify its Unit Owners of the date, time and place of each annual and special meeting of Unit Owners no fewer than ten (10), nor more than forty-five (45), days before the meeting date. The notice of a meeting shall also contain such other information which may be required by these Bylaws.

*Section 6. Waiver of Notice.* A Unit Owner's attendance at a meeting:

- (a) Waives objection to lack of notice or defective notice of the meeting unless the Unit Owner at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting; and
- (b) Waives objection to consideration of a particular matter at the meeting that is not within the purpose(s) described in the meeting notice, unless the Unit Owner objects to considering the matter when it is presented.

**Book and Page GI 12364 792**

*Section 7. Voting.* The aggregate number of votes of all Unit Owners shall be equal to the total of all Units which are subject to the Declaration, and shall be divided among the respective Unit Owners with one (1) vote allocated to each Unit. If any Unit Owner consists of more than one (1) person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one (1) person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. A "majority of the Unit Owners" means the owners of more than fifty percent (50%) of the voting rights of the Unit Owners.

The Developer may exercise the voting rights with respect to Units owned by Developer.

Notwithstanding the foregoing, no Unit Owner who is in default in the payment of assessments hereunder shall be entitled to exercise the right to vote until the Owner has cured such default. A Unit Owner shall be deemed to be in default if such Owner has not paid his or her assessments to the Board, or their agent, within ten (10) days after the date such assessments are due. A Unit Owner may protest the amount of the assessment, but it still must be paid during the pendency of the protest to the Board.

*Section 8. Quorum.* Unless otherwise required by law, a majority of the votes entitled to be cast by Unit Owners must be represented at any meeting of the Unit Owners to constitute a quorum on that matter. If, however, such quorum is not represented at any such meeting, the Unit Owners present at the meeting in person or represented by proxy shall have the power to adjourn from time to time without notice other than announcement at the meeting, until the requisite quorum is present or represented, when any business may be transacted which might have been transacted at the meeting as provided in the original notice.

*Section 9. Voting Requirements.* Except as otherwise provided in these Bylaws, the Declaration or the Horizontal Property Act, action on any matter voted upon at a meeting of the Unit Owners is approved if a majority of the voting rights are in favor of the action. However, Directors shall be elected by a plurality of the votes cast by the Unit Owners entitled to vote in the election at a meeting of the Unit Owners at which a quorum is present.

*Section 10. Action by Written Consent.* Action that is required or permitted to be taken at a meeting of the Unit Owners may be taken without such a meeting if all Unit Owners entitled to vote on the action consent to taking such action without a meeting. If all of such Unit Owners so consent, the affirmative vote of the number of votes that would be necessary to authorize or take such action at a meeting shall be the act of the Unit Owners, except as otherwise provided in these Bylaws. Such consent (or counterpart(s) thereof) shall describe the action taken, be in writing, be signed by each Unit Owner entitled to vote on the action, indicate each signing Unit Owner's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes or Association records.

*Section 11. Action by Written Ballot.* Any action that may be taken at any annual or special meeting of Unit Owners may be taken without a meeting if the Association delivers a written ballot to every Unit Owner entitled to vote on the matter. The written ballot shall set forth each proposed action and shall provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall:

(a) Indicate the number of responses needed to meet the quorum requirements;



**Book and Page GI 12364 793**

- (b) State the percentage of approvals necessary to approve each matter other than election of Directors; and
- (c) Specify the time by which the ballot must be received by the Association in order to be counted.

**ARTICLE II Board of Directors**

*Section 1. Number, Election and Term of Office.* The Board of Directors of the Association (referred to in the Horizontal Property Act of the State of Tennessee as the "board of administration," and sometimes referred to herein as the "Board") shall consist of three (3) persons (hereinafter referred to as "Directors"). Directors shall be elected at the annual meeting of the Association's Unit Owners by the vote of Unit Owners as hereinafter provided, except that the Developer shall appoint the interim Board of Directors ("Interim Board") until the first meeting, which shall be called and held within ninety (90) days of the Turnover Date. Those candidates for election as Director receiving the greatest number of votes cast either in person, or by proxy, at the meeting shall be elected. Directors shall each hold office for the term of one (1) year and until his or her successor shall be elected and qualified.

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

*Section 3. Regular Meetings.* Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice at such time and place as the Board of Directors shall determine from time to time, but no less frequently than once a year.

*Section 4. Special Meetings.* Special meetings of the Board of Directors may be called by the President or by any two (2) Directors.

*Section 5. Notice of Meetings.* Except as otherwise provided herein, regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Except as otherwise provided herein, special meetings of the Board of Directors must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of such special meeting. Notice of any adjourned meeting need not be given if the time and place to which the meeting is adjourned are fixed at the meeting at which the adjournment is taken, and if the period of adjournment does not exceed one (1) month in anyone (1) adjournment.

*Section 6. Waiver of Notice.* If a Director attends or participates in a meeting, he or she waives any required notice to him or her of the meeting unless the Director at the beginning of the meeting (or promptly upon arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

*Section 7. Quorum and Voting.* A quorum of the Board of Directors consists of a majority of the Directors then in office before a meeting begins. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors, except as otherwise provided in these Bylaws.

*Section 8. Vacancy.* If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of Directors or a vacancy resulting from a removal of a Director with or without cause:

**Book and Page GI 12364 794**

- (a) The Unit Owners may fill the vacancy;
- (b) The Board of Directors may fill the vacancy; or
- (c) If the Directors remaining in office constitute fewer than a quorum of the Board, they may fill the vacancy by the affirmative vote of a majority of all Directors remaining in office.

Any Director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Director succeeded.

*Section 9. Removal of Directors.* The Unit Owners may remove anyone (1) or more Directors, with or without cause, at any special meeting that is specifically called for that purpose.

*Section 10. Action Without Meeting.* Action that is required or permitted to be taken at a meeting of the Board of Directors may be taken without such a meeting if all Directors consent to taking such action without a meeting. If all Directors so consent, the affirmative vote of the number of Directors that would be necessary to authorize or take such action at a meeting shall be the act of the Board, except as otherwise provided in these Bylaws. Such consent(s) shall describe the action taken, be in writing, be signed by each Director entitled to vote, indicate each signing Director's vote or abstention on the action, and be delivered to the Secretary of the Association and included in the minutes filed with the Association's records.

*Section 11. Indemnification.* With respect to claims or liabilities arising out of service as a Director of the Association, the Association shall indemnify and advance expenses to each present and future Director (and his or her estate, heirs, and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

*Section 12. Immunity.* To the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended, each present and future Director (and his or her estate, heirs, and personal representatives) shall be immune from suit arising from the conduct of the affairs of the Association.

*Section 13. Compensation.* Directors shall receive no compensation for their services as Directors, unless expressly provided for in resolutions duly adopted by the Unit Owners.

*Section 14. Powers and Duties.* The Board shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property;
- (c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that the first Board, appointed as provided herein, shall ratify and approve the Management Agreement between the Developer, on behalf of the Association, and a management corporation, to act as Managing Agent for the Property for a term as approved by said first Board, but not to exceed one (1) year,
- (d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;
- (e) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;
- (f) to provide for the maintenance, repair, and replacement of the Common Elements and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the Managing Agent;

**Book and Page GI 12364 795**

- (g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent;
- (h) to appoint committees of the Board and to delegate to such committee the Board's authority to carry out certain duties of the Board;
- (i) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable, but only as allowed by law;
- (j) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such, estimated expenses, as hereinafter provided;
- (k) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Unit Owners, as expressed in a resolution duly adopted at any annual or special meeting of the Unit Owners;
- (l) to resolve or mediate disputes, conflicts or problems between Unit Owners;
- (m) when necessary, to interpret the rules and regulations of the Association and the Declaration;
- (n) to exercise all other powers and duties of a board of administration as referred to in the Horizontal Property Act of the State of Tennessee and all powers and duties of the Board of Directors referred to in the Declaration or these Bylaws.

*Section 15. Non-Delegation.* Nothing in this Article or elsewhere in these Bylaws shall be considered to grant to the Board, the Association or to the officers of the Association any powers or duties which, by law, have been delegated to the Unit Owners.

### ARTICLE III Officers

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

- (a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Association;
- (b) a Secretary, who shall keep the minutes of all meetings of the Board and of the Unit Owners, and who shall, in general, perform all the duties incident to the office of Secretary, and who may be a representative of the Managing Agent;
- (c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and
- (d) such additional officers as the Board shall see fit to elect.

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

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

*Section 4. Vacancies.* Vacancies in any office shall be filled by the Board by a majority vote of the remaining Directors at a special meeting of said Board. Any Director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer succeeded.

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

**Book and Page GI 12364 796**

*Section 6. Removal.* The Board of Directors may remove any officer at any time with or without cause.

*Section 7. Indemnification.* With respect to claims or liabilities arising out of service as an officer of the Association, the Association shall indemnify and advance expenses to each present and future officer (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

ARTICLE IV  
Assessments

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

*Section 2. Assessments.* The estimated annual budget for each fiscal year shall be approved by the Board, and copies thereof shall be furnished by the Board to each Unit Owner, not later than thirty (30) days prior to the beginning of such year. On or before the first day of the first month and of each succeeding month of the year covered by the annual budget, each Unit Owner shall pay, as such Owner's respective monthly assessment for the common expenses, one-twelfth (1/12) of such Owner's proportionate share of the common expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with such Owner's respective membership interest in the Association, as set forth in the Declaration. In the event that the Board shall not approve an estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of such Owner's respective monthly assessment as last determined. Each Unit Owner shall pay such Owner's monthly assessment on or before the first day of each month to the Managing Agent or as may be otherwise directed by the Board. No Unit Owner shall be relieved of the obligation to pay such Owner's assessment by abandoning or not using such Owner's Unit, the Common Elements, or the Limited Common Elements. The Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall be approved by a majority of the Directors.

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

**Book and Page GI 12364 797**

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

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

*Section 6. Working Capital Fee Collected at Each Closing.* At the time of the initial sale of a Unit by the Developer and at the time of each sale of a Unit thereafter, each new Unit Owner, at the time of closing of the purchase of said Unit, shall pay a Working Capital Fee in the amount of two (2) month's assessments, which Working Capital Fee shall be used to fund the Association's capital reserve account.

*Section 7. Lien.* It shall be the duty of every Unit Owner to pay such Owner's proportionate share of the common expenses and limited common expenses, as provided in the Declaration, and as assessed in the manner herein provided.

If any Unit Owner shall fail or refuse to make any such payment of the common expenses or limited common expenses when due, the amount thereof, together with interest thereon at the rate of ten percent (10 %) per annum after said common expenses become due and payable, shall constitute a lien, as provided in the Act, enforceable by the Board, on the interest of such Unit Owner in the Property, provided, however, that such lien shall be subordinate to the lien of a recorded deed of trust on the interest of such Unit Owner, except for the amount of the proportionate share of common expenses and limited common expenses which are due and payable from and after the date on which such deed of trust beneficiary either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or files suit to foreclose on its deed of trust.

The Association or its successors and assigns, and the Board or its agents, shall have the right to enforce the lien as provided in the Declaration, and there shall be added to the amount due the costs of any suit maintained to enforce the lien and other fees and expenses, together with legal interest and reasonable attorneys' fees. Furthermore, if any Unit Owner shall fail or refuse to pay when due such Owner's proportionate share of the common expenses or limited common expenses and such Unit Owner withholds possession of such Owner's Unit after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Unit. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Horizontal Property Act, the Declaration or these Bylaws, or as are otherwise available at law or in equity, for the collection of all unpaid assessments.

*Section 8. Records and Statement of Account.* The Board shall cause to be kept detailed and accurate records in a book in chronological order of the receipts and expenditures affecting the Common Elements and Limited Common Elements, specifying and itemizing the common expenses and limited common expenses incurred. Payment vouchers may be approved in such manner as the Board may determine. Said book and the vouchers shall be available for examination by all Unit Owners at convenient hours on working days which shall be set and announced for general knowledge.

**Book and Page GI 12364 798**

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

*Section 9. Discharge of Liens.* The Board may cause the Association to discharge any mechanic's lien or other encumbrance that in the opinion of the Board may constitute a lien against the Property or the Common Elements, rather than a lien against only a particular Unit ownership. When fewer than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien.

*Section 10. Holding of Funds.* All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Unit Owners.

*Section 11. Association Records.* The Association shall keep as permanent records minutes of all meetings of its Unit Owners and Board of Directors, a record of all actions taken by the Unit Owners and the Board of Directors without a meeting and all appropriate accounting records.

*Section 12. Records at Principal Office.* The Association shall keep at all times a copy of the following records at its principal office:

- (a) Its Charter or Restated Charter and all amendments thereto;
- (b) These Bylaws and all amendments thereto;
- (c) Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of Unit Owners or any class or category of Unit Owners;
- (d) The minutes of all meetings of Unit Owners and the records of all actions taken by Unit Owners without a meeting for the past three (3) years;
- (e) All written communications to Unit Owners generally within the past three (3) years, including the past three (3) years' annual financial statements;
- (f) A list of the names and business or home addresses of its current Directors and officers;
- (g) The most recent annual report delivered to the Tennessee Secretary of State; and
- (h) Its Declaration and all amendments thereto.

*Section 13. Annual Financial Statements.* The Association shall prepare annual financial statements that include a balance sheet as of the end of the fiscal year, an income statement for that year, and such other information necessary to comply with the requirements of the applicable provisions of the Tennessee Nonprofit Corporation Act.

**ARTICLE V****Use and Occupancy Restrictions**

*Section 1. General.* No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon that shall constitute a nuisance or that shall in the judgment of the Board cause unreasonable noise or disturbance to others.

Each Unit Owner shall maintain such Owner's Unit in good condition and in good order and repair, at such Owner's expense, and shall not do or allow anything to be done in such Owner's Unit that may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements. Each Unit Owner shall be responsible for damage to the Property, Common Elements, and Units owned by other Owners to the extent caused by the negligence or intentional misconduct of such Unit Owner,

**Book and Page GI 12364 799**

including any damage caused by alterations, additions or improvements made by a Unit Owner to his/her Unit. No Unit Owner shall display, hang, store or use any clothing, sheets, blankets, laundry, or other articles outside such Owner's Unit, or which may be visible from the outside of such Owner's Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board) or paint or decorate or adorn the outside of such Owner's Unit, or install outside such Owner's Unit any canopy or awning, or outside radio or television antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion. The foregoing restrictions as to use and occupancy shall not be construed to prohibit a Unit Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a patio, porch or deck. No Owner of a Unit shall display, hang, store or use any sign or flag outside such Owner's Unit, in a hallway or elsewhere, or that may be visible from the outside of such Owner's Unit without the prior written permission of the Board or the written permission of the Managing Agent, acting in accord with the Board's discretion.

No structure of a temporary character, trailer, motor home, boat, tent, shack, garage, barn, or other out-buildings shall be permitted on the Property at any time, temporarily or permanently, except with the prior written consent of the Board; provided, however, that temporary structures may be erected for use in connection with the repair or rebuilding of the buildings located on the Property (the "Buildings") or any portion thereof.

*Section 2. Residential Use.*

- (a) All of the Units in the Development shall be, and be known and described as, residential units, and no structure shall be erected, altered, placed or permitted to remain on any Unit other than as provided in this Declaration and in supplements hereto, or except as provided for in a deed of conveyance from Developer or as otherwise specifically consented to by Developer or the Board in writing.
- (b) "Residential," refers to a mode of occupancy, as used in contradistinction to "business" or "commercial" or "mercantile" activity and, except where otherwise expressly provided, "residential" shall apply to temporary as well as permanent uses, and shall apply to vacant Units.
- (c) No Unit may be used as a means of service to business establishments or adjacent property, including but not limited to supplementary facilities or an intentional passageway or entrance into a business or another tract of land, regardless of whether a part of the Property, unless specifically consented to by Developer or the Board in writing.

*Section 3. Animals.* No animals shall be raised, bred, or kept in any Unit, except for dogs, household cats and small birds owned as household pets by a Unit Owner, provided that said pet is not kept for any commercial purpose, and provided that said pet shall be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, and provided that said pet shall not in the judgment of the Board constitute a nuisance to others. The pet owners shall also muzzle any pet which consistently barks. If the barking persists, the pet owner shall have the pet removed from the Development. If the pet owner refuses, it shall be deemed an "offensive activity".

All dogs owned by Unit Owners and kept in a Unit shall be on leash while outside the Unit. All such dogs shall be exercised by the Owner at places on the Property that do not interfere with the use and enjoyment of the same by other Owners. An Owner shall be responsible for all damage to Common Elements caused by said Owner's animals and the Owner shall clean up after such Owner's animals.

*Section 4. Trash.* Trash, garbage, and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the

**Book and Page GI 12364 800**

Board. No fuel tanks or similar storage receptacles may be exposed to view, and such tanks or receptacles may be installed only within a Unit, within a screened area, or buried underground subject to environmental regulatory approvals.

*Section 5. Use by Developer.* During the period of sale by the Developer of any Units, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of said sale of Units. While the Developer owns any of the Units and until each Unit sold by it is occupied by the purchasers, the Developer and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.

*Section 6. Storage.* Articles of personal property belonging to any Unit Owner, such as baby carriages, bicycles, wagons, toys, furniture, clothing and other articles, shall not be stored or kept in common areas unless the area is specifically designated for storage of that property. Storage of boats, trailers, campers, and motor homes on the Property shall not be permitted. Front porches of Units may not be used for exterior storage purposes.

*Section 7. Wiring.* No Unit Owner shall overload the electrical wiring, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior written consent of the Board or the prior written consent of the Managing Agent, given in accord with the Board's discretion.

*Section 8. Architectural Control.* Prior to the Turnover Date, Developer shall have the right to control and approve all exterior architectural and aesthetic elements and characteristics of the Units, which shall remain unchanged from their appearance as initially constructed, so as to preserve the continuity and uniformity of the Units, unless such change is approved in writing in advance in accordance with this Section. Prior to the Turnover Date, the exterior of the Units shall not be altered or changed in any way without the written consent of the Developer. Thereafter, any such alterations or changes to the exterior of the Units shall require the written consent of the Association.

*Section 9. Patios.* All patios, porches, and decks attached to a Unit shall be designated as a Limited Common Element and shall be maintained, repaired, and replaced by the Association.

*Section 10. Landscaping.* Landscaping of the Common Elements shall be maintained by the Association and shall be weeded and mulched as necessary in order to maintain appropriate curb appeal for this type of development, and the costs of same shall be assessed as Common Expenses.

*Section 11. Fencing.* No fencing shall be allowed other than fencing installed by the Developer or as approved by the Board.

*Section 12. Parking.* Parking shall be in the areas so designated to each Unit as prescribed herein and subject to rules and regulations of the Association. No Unit shall permit the overnight parking of trucks or other equipment inconsistent with ordinary residential uses. No panel, commercial or tractor trucks shall be habitually parked in driveways or overnight on streets in front of any of the Units. No inoperable vehicle, tractor or other machinery shall be stored outside on the premises at any time, even if not visible from the street. No house trailer or such vehicle shall be stored on the Property.



**Book and Page GI 12364 801**

*Section 13. Signs.* One sign offering the Unit for sale may be placed upon a Unit. Such sign must be in form approved by the Developer or Board. No other signs shall be erected or maintained on any Unit, except in accordance with approved standards for signs as set by the Developer or the Board.

*Section 14. Speakers.* No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used, or placed upon Units within the Development. The playing of loud music from any balconies or porches shall be offensive, obnoxious activity constituting a nuisance.

*Section 15. Single Family Residence.* Each Unit shall be used as one single family residence only unless approved by the Association.

*Section 16. Zoning.* Whether expressly stated so or not in any deed conveying any one or more of said Units, each conveyance shall be subject to existing governmental zoning and subdivision ordinances or regulations in effect thereon.

*Section 17. Unsightly Condition.* All of the Units in the Development must, from the date of purchase, be maintained by the Unit Owner in a neat and orderly condition. In the event that a Unit Owner of a Unit in the Development fails, of his/her own volition, to maintain his/her Unit in a neat and orderly condition, Developer, or its duly appointed agent, or the Board, or its duly appointed agent, may proceed without liability to put said Unit into an orderly condition, billing the Unit Owner two hundred fifty percent (250%) of the cost of such work.

*Section 18. Rules and Regulations.* Unit Owners shall be subject to such further restrictions as may be contained in the rules and regulations of the Association concerning the use of Units and the Common Elements which may be enacted from time to time by the Association. Such rules and regulations shall be binding rules and regulations of the Association and copies of such rules and regulations and any amendments or additions thereto shall be furnished to all Unit Owners upon request.

*Section 19. Enforcement.* In the event of the violation, or attempted violation, of any one or more of the provisions of the Declaration or these Bylaws, the Developer, its successors or assigns, or the Association, its successors or assigns, including all parties hereinafter becoming Unit Owners of any one or more of the Units to which provisions of the Declaration apply, may bring an action or actions against the Unit Owner in violation, or attempting violation, and the said Owner shall be further liable for such damages as may accrue, including any court costs and reasonable attorneys' fees incidental to any such proceeding. Developer or the Board may grant variances of these Occupancy and Use Restrictions set forth in this Declaration if such variances do not, in the sole discretion of Developer or the Board, adversely affect the purposes sought to be obtained hereby.

By reason of the rights of enforcement of the provisions of this section being given unto Unit Owners (subject to rights of variances reserved by the Developer and the Board), it shall not be incumbent upon the Developer or the Board to enforce the provisions of the Declaration and/or these Bylaws, or to prosecute any violation thereof. Developer shall not be responsible or liable for any violation of the Declaration and/or these Bylaws by any person other than itself.

**ARTICLE VI**  
**Contractual Powers**

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors of the

**Book and Page GI 12364 802**

Association are directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

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

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

ARTICLE VII  
Amendments

These Bylaws may be amended or modified from time to time by action of the Developer prior to the Turnover Date, and thereafter with approval of not less than 75% of the total voting rights of Unit Owners. Such amendment(s) shall not be operative until they are recorded in the office of the Register of Deeds for Hamilton County, Tennessee. These Bylaws may not be amended by the Board of Directors.

ARTICLE VIII  
Deeds of Trust

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

*Section 2. Notice of Unpaid Common Charges.* The Board, whenever so requested in writing by a deed of trust beneficiary of a Unit, shall promptly report any then unpaid assessments, fees or common charges due from, or any default by, the Owner of the mortgaged Unit.

*Section 3. Notice of Default.* The Board, when giving notice to a Unit Owner of a default in paying common expenses or other default, shall send a copy of such notice to each deed of trust beneficiary of record covering such Unit whose name and address has theretofore been furnished to the Board and which has requested in writing to be sent a copy of such notice(s).

*Section 4. Examination of Books.* Each Unit Owner, and others as specified in the Declaration, shall be permitted to examine the books and records of the Association, current copies of the Declaration and Bylaws, and rules and regulations of the Association during normal business hours and upon request.

*Section 5. Interest of Valid First Lien Deed of Trust.* The interest of a valid first lien deed of trust shall be superior to the interest of the Board in the event of a default, and nothing in this instrument shall be construed to the contrary. If the first lien deed of trust has incorporated the terms of these Bylaws, the Declaration and the contract in its deed of trust, then said first lien deed of trust may at its option declare a default in its deed of trust by reason of any default hereunder, and may proceed to enforce its rights according to the terms of the deed of trust, notwithstanding any enforcement instituted by the Board.

ARTICLE IX  
Definition of Terms

**Book and Page GI 12364 803**

The terms used in these Bylaws, to the extent they are defined herein, shall have the same definition as set forth in the Declaration for the horizontal property regime known as Residences at Montaguc Park II, as such may be amended from time to time, which Declaration is recorded in the Register's Office, Hamilton County, Tennessee.

The term "member," as used in these Bylaws, generally means "Unit Owner" as defined in the Declaration, "Deed of Trust," as used herein, includes a mortgage; and "deed of trust beneficiary" includes a mortgagee and a holder of a deed of trust.

**ARTICLE X**  
**Miscellaneous Provisions**

*Section 1. No Seal.* The Association shall have no seal.

*Section 2. Notices.* Whenever notice is required to be given to Unit Owners, Directors or officers, unless otherwise provided by law, the Declaration, the Charter or these Bylaws, such notice may be given in person or by telephone, telegraph, mail, e-mail, or private carrier. If such notice is given by mail, it shall be sent postage prepaid by first class United States mail or by registered or certified United States mail, return receipt requested, and addressed to the respective address which appears for each such person on the books of the Association. Written notice sent by mail to Unit Owners shall be deemed to have been given when it is mailed. Any other written notice shall be deemed to have been given at the earliest of the following:

- (a) When received;
- (b) Five (5) days after its deposit in the United States mail if sent first class, postage prepaid; or
- (c) On the date on the return receipt, if sent by registered or certified United States mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

*Section 3. Waiver of Notice.* Whenever any notice is required to be given under the provisions of any statute, or of the Declaration, the Charter or these Bylaws, a waiver thereof in writing signed by the person entitled to such notice, whether before or after the date stated thereon, and delivered to the Secretary of the Association and included in the minutes or corporate records, shall be deemed equivalent thereto.

*Section 4. Negotiable Instruments.* All checks, drafts, notes or other obligations of the Association shall be signed by such of the officers of the Association or by such other person(s), as may be authorized by the Board of Directors.

*Section 5. Deposits.* The monies of the Association may be deposited in the name of the Association in such bank(s) or financial institution(s) as the Board of Directors shall designate from time to time and shall be drawn out by check signed by the officer(s) or person(s) designated by resolution adopted by the Board of Directors.

*Section 6. Committee Members.* With respect to claims or liabilities arising out of service as a member of a committee duly appointed by the Board of Directors of the Association, the Association shall indemnify and advance expenses to each such present and future committee member (and his or her estate, heirs and personal representatives) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect and as hereafter adopted or amended.

*Section 7. Developer.* With respect to claims or liabilities arising out of service as an agent of the Association, the Association shall indemnify and advance expenses to the Developer (its officers,

**Book and Page GI 12364 804**

employees and successors) to the fullest extent allowed by the laws of the State of Tennessee, both as now in effect or as hereafter adopted or amended.

**ARTICLE XI**  
**Conflicts**

These Bylaws are set forth to comply with the requirements of Chapter 27 of Title 66, Tennessee Code Annotated, as it may be amended from time to time, and to allow the Bylaws to control in specific situations where such law allows. In case any of the Bylaws conflict with the provisions of said statute or of the Declaration, the provisions of said statute or of the Declaration, as the case may be, shall control.

[signature on following page]

**Book and Page GI 12364 805**

IN WITNESS WHEREOF, the undersigned officer of the Association has set his hand this  
15 day of February, 2021.

MONTAGUE TOWNHOME ASSOCIATION

By:

  
\_\_\_\_\_  
Christopher Benegar, President

**Book and Page GI 12364 806**

**EXHIBIT C  
Charter**

[see attached]

## Book and Page GI 12364 807



**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

Montague Townhome Association  
949 E MAIN ST  
CHATTANOOGA, TN 37408-1541

February 11, 2021

### Filing Acknowledgment

Please review the filing information below and notify our office immediately of any discrepancies.

SOS Control # :	001168933	Formation Locale:	TENNESSEE
Filing Type:	Nonprofit Corporation - Domestic	Date Formed:	02/11/2021
Filing Date:	02/11/2021 8:25 AM	Fiscal Year Close:	12
Status:	Active	Annual Report Due:	04/01/2022
Duration Term:	Perpetual	Image # :	B0981-3814
Public/Mutual Benefit:	Mutual		
Business County:	HAMILTON COUNTY		

#### Document Receipt

Receipt # : 006066232	Filing Fee:	\$100.00
Payment-Credit Card - State Payment Center - CC #: 3798964476		\$100.00

Registered Agent Address:  
CHRISTOPHER HENEGAR  
949 E MAIN ST  
CHATTANOOGA, TN 37408-1541

Principal Address:  
949 E MAIN ST  
CHATTANOOGA, TN 37408-1541

Congratulations on the successful filing of your Charter for Montague Townhome Association in the State of Tennessee which is effective on the date shown above. You must also file this document in the office of the Register of Deeds in the county where the entity has its principal office if such principal office is in Tennessee. Please visit the Tennessee Department of Revenue website ([www.tn.gov/revenue](http://www.tn.gov/revenue)) to determine your online tax registration requirements. If you need to obtain a Certificate of Existence for this entity, you can request, pay for, and receive it from our website.

You must file an Annual Report with this office on or before the Annual Report Due Date noted above and maintain a Registered Office and Registered Agent. Failure to do so will subject the business to Administrative Dissolution/Revocation.

Tre Hargett  
Secretary of State

Phone (615) 741-2286 \* Fax (615) 741-7310 \* Website: <http://tnbear.tn.gov/>

Book and Page GI 12364 808



001168933

B0981-3814 02/11/2021 8:25 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 # 001168933

**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:** Montague Townhome 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:**

CHRISTOPHER HENEGAR  
949 E MAIN ST  
CHATTANOOGA, TN 37408-1541  
HAMILTON 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:**


949 E MAIN ST  
CHATTANOOGA, TN 37408-1541  
HAMILTON COUNTY

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





B0981-3815 02/11/2021 8:25 AM Received by Tennessee Secretary of State Tre Hargett

<b>CHARTER NONPROFIT CORPORATION</b>		SS-4418																
 <b>Tre Hargett</b> Secretary of State	<b>Division of Business Services</b> <b>Department of State</b> State of Tennessee 312 Rosa L. Parks AVE, 6th FL Nashville, TN 37243-1102 (615) 741-2286  Filing Fee: \$100.00	<i>For Office Use Only</i> <b>-FILED-</b> Control # 001168933																
<b>The name of the corporation is:</b> Montague Townhome Association																		
<b>10. The complete mailing address of the entity (if different from the principal office) is:</b> 949 E MAIN ST CHATTANOOGA, TN 37408-1541																		
<b>11. List the name and complete address of each incorporator:</b> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <thead> <tr> <th style="width: 15%;">Title</th> <th style="width: 30%;">Name</th> <th style="width: 35%;">Business Address</th> <th style="width: 20%;">City, State, Zip</th> </tr> </thead> <tbody> <tr> <td>Incorporator</td> <td>Charles G Fisher</td> <td>633 CHESTNUT ST STE 900</td> <td>CHATTANOOGA, TN 37450</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>			Title	Name	Business Address	City, State, Zip	Incorporator	Charles G Fisher	633 CHESTNUT ST STE 900	CHATTANOOGA, TN 37450								
Title	Name	Business Address	City, State, Zip															
Incorporator	Charles G Fisher	633 CHESTNUT ST STE 900	CHATTANOOGA, TN 37450															
<b>12. School Organization:</b> (required if the additional designation of "School Organization - Exempt" is entered in section 3.) <input type="checkbox"/> 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). <input type="checkbox"/> This nonprofit corporation is a "school support organization" as defined in T.C.A. §49-2-603(4)(A). <input type="checkbox"/> This nonprofit corporation is an educational institution as defined in T.C.A. §48-101-502(b).																		
<b>13. Insert here the provisions regarding the distribution of assets upon dissolution:</b> 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.																		
<b>14. Other Provisions:</b>																		
<i>(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)</i>																		
Electronic Signature  Charles G Fisher <small>Printed Name</small>	Incorporator <small>Title/Signer's Capacity</small>  Feb 11, 2021 8:25AM <small>Date</small>																	

**Book and Page GI 12364 810**

**EXHIBIT D  
Attorney's Certificate**


[see attached]

ATTORNEY'S CERTIFICATE

This document is intended to serve as the attorney's opinion which is required under the terms of Tennessee Code Annotated § 66-27-103. The undersigned, Charles G. Fisher, an attorney licensed to practice law in the State of Tennessee, hereby declares that upon the proper recording of the following documents, all legal requirements for the creation of a Horizontal Property Regime development under the terms of the Tennessee Horizontal Property Act, Tennessee Code Annotated, Section 66-27-101 et seq., will have been met:

- 1. Declaration of Residences at Montague Park II, a Horizontal Property Regime with Private Elements (the "Declaration");
- 2. Plat recorded in Plat Book 119, Page 171, in the Register's Office of Hamilton County, Tennessee, showing the Private Elements and Common Elements, attached as **Exhibit A-1** to the Declaration;
- 3. Bylaws of Montague Townhome Association, a Tennessee mutual benefit corporation, attached as **Exhibit B** to the Declaration;
- 4. Charter of Montague Townhome Association, a Tennessee mutual benefit corporation, attached as **Exhibit C** to the Declaration.
- 5. Restrictions as set out in the Declaration and Bylaws to be revised as needed.
- 6. Certificate from architect licensed to practice in the State of Tennessee, per Tennessee Code Annotated, Section 66-27-144(b), a copy of which is attached as **Exhibit D-1** to the Declaration.

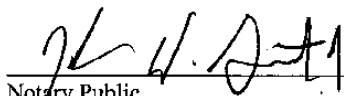
Witness my hand this 15 day of February, 2021.

  
 \_\_\_\_\_  
 Charles G. Fisher  
 TN BPR #018648

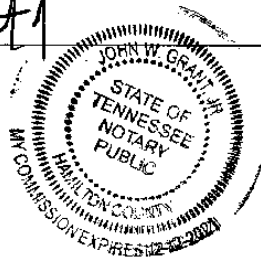
STATE OF TENNESSEE     )  
   )  
 COUNTY OF HAMILTON    )

Personally appeared before me, the undersigned, a Notary Public in and for said county and state, the within named Charles G. Fisher, with whom I am personally acquainted, and who acknowledged that he executed the within instrument in the capacity and for the purposes therein contained.

Witness my hand this 15 day of February, 2021.

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires:  
12-12-2021



**Book and Page GI 12364 812**

**EXHIBIT D-1  
Architect's Certificate**

[see attached]

ARCHITECT'S CERTIFICATE

I, Alex Reyland, being a licensed Architect in the State of Tennessee, have reviewed and examined the engineering and site plans for Residences at Montague Park II, a Horizontal Property Regime with Private Elements (the "Project") and have reviewed and examined the architect's drawings for the Units to be located within the Project (the "Project"). Based on that review, and in order to comply with T.C.A. Section 66-27-104(b), I do hereby certify to Charles G. Fisher of Grant, Konvalinka & Harrison, P.C. the following:

1. I am familiar with the plans and specifications for the Project (the "Plans"), and am further familiar with the nature, design and intended use and operation of the Project. The Project, if completed in accordance with the Plans, will comply with all applicable laws, regulations, and codes related to the design and construction for planned unit developments, in effect as of the date hereof.

2. The improvements to be constructed at the Project (the "Improvements"), when completed in accordance with the Plans, shall be in compliance with all applicable codes, laws, and ordinances, conditions and restrictions, and with other requirements and restrictions of governmental authorities having jurisdiction over the Project, including building, fire, applicable zoning and health codes.

3. No portion of the Plans calls for or requires asbestos in any form, urea formaldehyde foam insulation or any other chemical, material or substance the proposed or actual use of which is prohibited or is in violation of any law, rule or regulation of any federal, state, county, regional or local government or regulatory unit or authority.

4. I am not aware of any violations or corrective requirements issued to date by the governmental authority having jurisdiction over the property on which the Project is to be located (the "Property") and the Improvements.

5. To the best of my knowledge, direct connections are capable of being made to public utilities, including water, sanitary sewer, electricity, telephone and gas, and such utilities are presently installed and in service at the Property. Such utilities satisfy the requirements of public authorities having jurisdiction over the Property and Project.

6. Charles G. Fisher, the attorney drafting the Declaration for the Project, may rely on this Certificate, which is made this 8th day of February, 2021, in giving his affirmative opinion that the Project meets the requirements of State of Tennessee, Tenn. Code Ann. § 66-27-101 thru 123.

[signature on following page]

WITNESS my hand this 8 day of February, 2021.

Signature

*Alex Reyland*

Name

*Alex Reyland*

License No.:

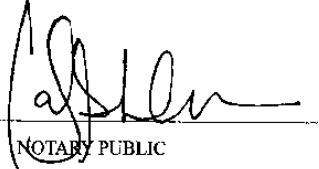
106784

STATE OF TENNESSEE  
COUNTY OF HAMILTON

**Book and Page GI 12364 814**

On this 8<sup>th</sup> day of February, 2021, before me personally appeared Alex Reylard, with whom I am personally acquainted (or have proven to me on the basis of satisfactory evidence) to be the person who executed the foregoing instrument and acknowledged that he/she executed said instrument as his/her free act and deed.

Witness my hand and Notarial Seal.

  
NOTARY PUBLIC

My Commission Expires:

1/10/2023



Book/Page: **GI 12539 / 534**

Instrument: 2021062300321

4 Page DECLARATION

Recorded by KML on 6/23/2021 at 3:31 PM

Misc Recording Fee	\$20.00
Data Processing Fee	\$2.00
eFile Fee	\$2.00

TOTAL FEES \$24.00

**This Instrument Prepared By:**  
 Charles G. Fisher, Esq.  
 Grant, Konvalinka & Harrison, P.C.  
 Ninth Floor, Republic Centre  
 633 Chestnut St., Suite 900  
 Chattanooga, TN 37450

State of Tennessee Hamilton County  
 Register of Deeds  
*Electronically Recorded by Simplifile*

**Marc Gravitt**

**FIRST AMENDMENT TO DECLARATION FOR RESIDENCES AT MONTAGUE PARK II,  
 A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS**

(Original Declaration Recorded in Book 12364, Page 769  
 in the Register's Office of Hamilton County, Tennessee)

**THIS FIRST AMENDMENT TO DECLARATION FOR RESIDENCES AT MONTAGUE PARK II, A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS** (this "First Amendment") is made as of June 23, 2021, by **MONTAGUE GP**, a Tennessee general partnership (the "Developer"), for the purposes more expressly set forth below.

**RECITALS**

A. Developer executed the Declaration for Residences at Montague Park II, a Horizontal Property Regime with Private Elements (the "Declaration") on February 15, 2021, and recorded the same at Book 12364, Page 769 in the Register's Office of Hamilton County, Tennessee.

B. Developer desires to amend the Declaration.

**NOW, THEREFORE**, the Developer hereby amends the Declaration as set forth below and directs that this First Amendment be filed in the Register's Office of Hamilton County to give evidence of the same.

1. The Declaration is hereby amended as follows:

(a) Article VI of the Declaration, entitled "Insurance," is deleted in its entirety and replaced with the following:

**ARTICLE VI  
 INSURANCE**

Each Unit Owner shall obtain and maintain at all times homeowner's or similar insurance covering such Unit Owner's Unit against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Unit, and against such other hazards and for such amounts as the Board may deem advisable from time to time. Each Unit Owner shall submit proof of such insurance to the Board no less than annually, and in the event that any Unit Owner fails to maintain or provide evidence of such insurance, the Board may procure such insurance on the Unit Owner's behalf and assess the costs thereof back to the violating Unit Owner.

The Board shall have the authority to obtain insurance for the Common Elements against loss or damage by fire, vandalism, malicious mischief and such other

**Book and Page: GI 12539 535**

hazards as are covered under standard extended coverage provisions for the Common Elements, and against such other hazards and for such amounts as the Board may deem advisable. Such insurance may include all or any portion of all Limited Common Elements. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association, as the trustee for each of the Unit Owners in direct ratio to said Unit Owner's respective percentage of ownership in the Association, as set forth in the Declaration. The policy of insurance should also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for such Owner's corresponding percentage of ownership in the Association.

The Board shall also have authority to and shall obtain comprehensive public liability insurance, in such amounts as it deems desirable, and workers' compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, deed of trust beneficiaries of record, if any, the Association, its officers, directors, Board and employees, the Developer, and the Managing Agent, if any, from liability in connection with the Common Elements. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for such Owner's corresponding percentage of ownership in the Association. The Board shall also have authority to and may obtain such insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officers of the Association, and members of any committee appointed pursuant to the Bylaws of the Association from liability arising from the fact that said person is or was director or officer of the Association, or a member of such a committee.

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

2. Except as specifically provided in this First Amendment, the Declaration is unchanged and remains in full force and effect.
3. The capitalized terms used but not defined in this First Amendment shall have the meanings given to them in the Declaration.

[signature on following page]



Book and Page: GI 12539 536

IN WITNESS WHEREOF, the undersigned, being the Developer under the Declaration, hereby amends the Declaration as set forth in this First Amendment for the purposes set forth herein.

DEVELOPER:

MONTAGUE GP

By: [Signature]  
Name: Christopher Henegar  
Title: Partner

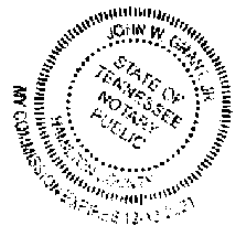
STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, a Notary Public in and for the state and county aforesaid, personally appeared Christopher Henegar, to me known (or proved to me on the basis of satisfactory evidence) to be a partner of MONTAGUE GP, the within named bargainor, a Tennessee general partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by himself as such partner.

WITNESS my hand and seal, at office in Hamilton County, Tennessee this 27 day of June, 2021.

[Signature]  
NOTARY PUBLIC

My commission expires: 12-12-2021



**True Copy Certification**

I, John R. Anderson, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

John R. Anderson  
Signature

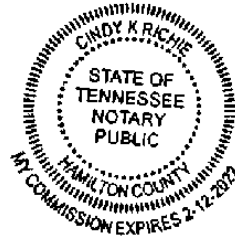
State of **TENNESSEE**

County of **HAMILTON**

Personally appeared before me, Cindy K. Richie, a notary public for this county and state, John R. Anderson who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Cindy K. Richie  
Notary's Signature

My Commission Expires: 2/12/22  
Notary Seal



Book/Page: **GI 12575 / 685**

Instrument: 2021072000312

4 Page DECLARATION  
Recorded by DLS on 7/20/2021 at 1:35 PM

Misc Recording Fee	\$20.00
Data Processing Fee	\$2.00
eFile Fee	\$2.00

TOTAL FEES \$24.00

**This Instrument Prepared By:**  
Charles G. Fisher, Esq.  
Grant, Konvalinka & Harrison, P.C  
Ninth Floor, Republic Centre  
633 Chestnut St., Suite 900  
Chattanooga, TN 37450

State of Tennessee Hamilton County  
Register of Deeds **Marc Gravitt**  
*Electronically Recorded by Simplifile*

**ASSIGNMENT OF DECLARANT RIGHTS  
FOR  
RESIDENCES AT MONTAGUE PARK II,  
A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS**

This Assignment of Declarant Rights for Residences at Montague Park II, a Horizontal Property Regime with Private Elements (this "Assignment") is made effective this 14<sup>th</sup> day of July, 2021, by and between **MONTAGUE GP**, a Tennessee general partnership ("Assignor"), and **MONTAGUE DEVELOPMENT, INC.**, a Tennessee corporation ("Assignee").

**WITNESSETH**

WHEREAS, Assignor executed the Declaration for Residences at Montague Park II, a Horizontal Property Regime with Private Elements (the "Declaration") on February 15, 2021, and recorded the same in Book 12364, Page 769 in the Register's Office of Hamilton County, Tennessee; and

WHEREAS, Assignor is identified, defined and designated in the Declaration as the "Declarant"; and

WHEREAS, Assignor desires to assign, transfer and convey to Assignee all of Assignor's rights, title, interest and obligations as the "Declarant" under the Declaration, and Assignee desires to assume the same.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

1. Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's rights, title, interest and obligations as the "Declarant" under the Declaration; and
2. Assignee hereby accepts the assignment set forth above and assumes the obligations of the "Declarant" under the Declaration.

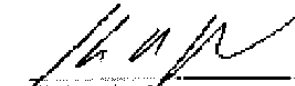
[signatures on following pages]

Book and Page: GI 12575 686

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment effective as of the day and year first above written.

**ASSIGNOR:**


MONTAGUE GP

By:   
Name: Christopher Henegar  
Title: Partner

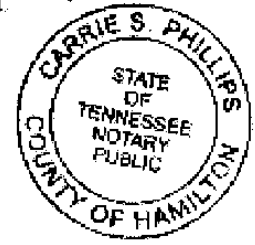
STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, a Notary Public in and for the state and county aforesaid, personally appeared Christopher Henegar, to me known (or proved to me on the basis of satisfactory evidence) to be a partner of **MONTAGUE GP**, the within named bargainor, a Tennessee general partnership, who acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by himself as such partner.

WITNESS my hand and seal, at office in Hamilton County, Tennessee this 19<sup>th</sup> day of July, 2021.

  
NOTARY PUBLIC

My commission expires: 1/10/2023



Book and Page: GI 12575 687

**ASSIGNEE:**

MONTAGUE DEVELOPMENT, INC.

By [Signature]  
 Name: CHRISTOPHER HENEGAR  
 Title: PARTNER

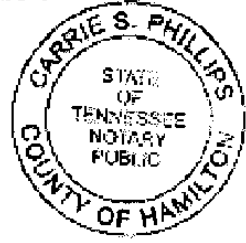
STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, a Notary Public in and for the state and county aforesaid, personally appeared Christopher Henegar, to me known (or proved to me on the basis of satisfactory evidence) to be the Partner of MONTAGUE DEVELOPMENT, INC., the within named bargainer, a Tennessee corporation, who acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such \_\_\_\_\_.

WITNESS my hand and seal, at office in Hamilton County, Tennessee this 19<sup>th</sup> day of July, 2021.

[Signature]  
 \_\_\_\_\_  
 NOTARY PUBLIC

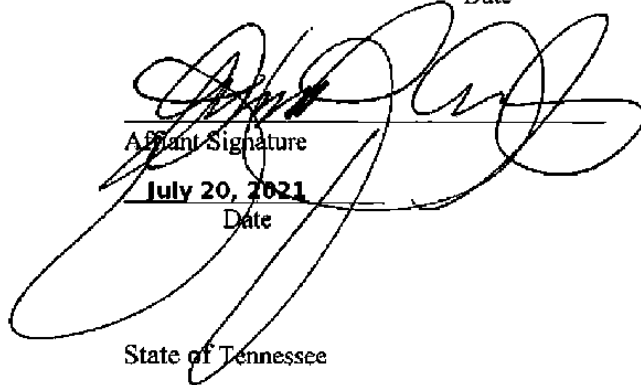
My commission expires: 1/10/2023



Certificate of Authenticity

I, John R. Anderson, do hereby make oath that I am a licensed attorney and/or the custodian of the original version of the electronic document tendered for registration herewith and that this electronic document is a true and exact copy of the original document executed and authenticated according to law on July 20, 2021.

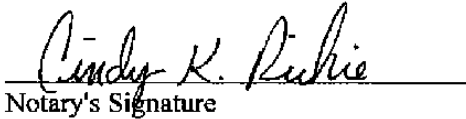
Date

  
Affiant Signature  
July 20, 2021  
Date

State of Tennessee

County of Hamilton

Sworn to and subscribed before me this 20th day of July, 20 21.

  
Notary's Signature

My Commission Expires: 2/12/22  
Date

