

BY-LAWS
FOR
BENWOOD HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
NAME

The following provisions shall constitute the By-Laws of BENWOOD HOMEOWNERS' ASSOCIATION, INC. (the "By-Laws"), a nonprofit corporation (the "Association") which shall, along with the provisions of the Charter of the Association (the "Charter"), the Restrictions for Benwood Subdivision, Phases I-V, as may be amended from time to time (the "Restrictions") and the rules and regulations adopted by the Board of Directors of the Association (the "Board"), govern the administration of Benwood Subdivision, a residential development (the "Development") and the real property in the Development owned by the Association ("Common Properties"). The terms in these By-Laws (unless otherwise defined) shall have the same meaning as the terms defined in the Restrictions for this Development.

ARTICLE II
OFFICES

The principal office of the Association shall be located at:

110 McCullough Road
Cleveland, Tennessee 37323

or at such other place either within or without the State of Tennessee, as shall be lawfully designated by the Association, or as the affairs of the Association may require from time to time.

ARTICLE III
PURPOSES

The purposes of this Association shall be to provide for the establishment of a residents' association for the government of the Development in the manner provided by the Charter, the Restrictions and these By-Laws. The aims of this Association are to be carried out through any and all lawful activities, including others not specifically stated in the Charter, the Restrictions, or these By-Laws but incidental to the stated aims and purposes; provided that any such activity or contribution shall conform to any applicable restrictions or limitations set forth in the Charter or which are imposed on real estate homeowners' associations by the Internal Revenue Code of 1986 and the regulations thereunder, as presently enacted or as they may hereafter be amended or supplemented. All present or future owners or tenants, or their employees, or any other person who might use the facilities in the Development in any manner, shall be subject to the covenants, provisions or regulations contained in the Restrictions and these By-Laws, as amended, and shall be subject to any restriction, condition or regulation hereafter adopted by the Association.

ARTICLE IV
ASSOCIATION

4.01 **Membership.** Every person or entity who is a record Member of a fee simple interest or an undivided fee simple interest in any Lot which is subject to the Restrictions shall be a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security

for the performance of an obligation shall not be a Member of the Association. Membership shall be automatically transferred to the new Member upon the conveyance of any Lot and recording of the deed of conveyance in the Register's Office of Bradley County, Tennessee. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.02 Voting Rights. Except as hereinafter provided in Section 4.02(b), Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 4.01. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. When one or more co-owners signs a proxy or purports to vote for his or her co-owners, such vote shall be counted unless one or more of the other co-owners is present and objects to such vote, or if not present, submits a proxy or objects in a written instrument delivered to the Secretary of the Association before the vote is counted. If co-owners disagree as to the vote, each co-owner will be entitled to a fractional vote equal to his fraction of ownership.

ARTICLE V THE BOARD OF DIRECTORS

5.01 Board of Directors. The administration of the Development and Common Properties on behalf of the Association shall be conducted by a Board of Directors ("Board") which shall consist of five natural persons of legal age, each of whom, at all times during membership on the Board, shall be a Member, a member of the household of a Member, or the nominee of an entity, other than a natural person, which is a Member.

5.02 INTENTIONALLY DELETED.

5.03 Election. At each annual meeting, the Association shall elect those members of the Board as required under Section 5.01 who shall serve the terms set out in Section 5.04. The Board elected at that special meeting shall serve until the next annual meeting of the Association held thereafter. At least thirty (30) days prior to any annual meeting of the Association a Nominating Committee of not less than two (2) Members (none of whom shall be members of the Board) which shall recommend to the annual meeting one nominee for each position on the Board to be filled at that particular annual meeting. Nomination for a position on the Board may also be made by petition filed with the Secretary of the Association at least seven (7) days prior to the annual meeting of the Association, which petition shall be signed by five (5) or more Members and by the nominee named therein indicating his willingness to serve as a member of the Board, if elected.

5.04 Term. Members of the Board shall serve for a term of three (3) years; provided, however, that one (1) member of the first Board elected by the Association at the annual meeting thereof shall be elected and shall serve for a term of one (1) year, two (2) members shall be elected and serve for a term of two (2) years and the other two (2) members shall be elected and serve for a term of three (3) years. Thereafter, all Board members elected each year shall serve for a term of three (3) years. The members of the Board shall serve until their respective successors are duly elected and qualified, or until their death, resignation or removal.

5.05 Resignation and Removal. Any member of the Board may resign at any time by giving written notice to the President or the remaining Board members. Any member of the Board may be removed from membership on the Board by the approval of sixty-seven percent (67%) of the votes of those Members of the Association who are in attendance or represented at any annual or special meeting duly called for such purpose, except that a vacancy on the Board shall be deemed to exist in the event of the death of a Board member, the disability of a Board member which, in the opinion of a majority of the

members of the Board, renders such Board member incapable of performing Board duties, or in the event a Board member shall cease to be a Member. Whenever there shall occur a vacancy on the Board for any reason, the remaining Board members shall elect a successor member to serve until the next annual meeting of the Association or until a special meeting is called for filling vacancies, at which time said vacancy shall be filled by the Association for the unexpired term, if any.

5.06 Compensation. The members of the Board shall receive no compensation for their services unless expressly authorized for by the Members of the Association, but they shall be reimbursed for reasonable expenses incurred by them in the performance of their duties.

5.07 Powers and Authority of the Board. The Board, for the benefit of the Members of the Association, shall enforce the provisions of the Restrictions, these By-Laws, and the Rules and Regulations governing the Common Properties. Subject to any provision herein, the Board shall have the power and authority to acquire and pay for the following, which shall be deemed Common Expenses of the Association:

A. Water, sewer, garbage collection, electrical, telephone and gas and other necessary utility services for the Development.

B. The services of a person or firm to manage its affairs (herein called "Manager"), to the extent deemed advisable by the Board, as well as such other personnel as the Board shall determine shall be necessary or proper for the operation of the Common Properties, whether such personnel are employed directly by the Board or are furnished by the Manager. All persons employed to manage or assist in the management or maintenance of the Common Properties shall be employed at the will of the Board; provided that a manager may be employed for successive periods not exceeding a three (3) year term in each period. The Board may delegate any of its duties, powers or functions relating to the daily administrative affairs of the Association to any person or firm designated by the Board to act as Manager.

C. The services of a person or firm to provide security for the Development to the extent and in such manner (fixed or roving or a combination thereof) as allowed by law and as determined by the Board to be necessary or proper.

D. Legal and accounting services necessary or advisable in the operation of the Common Properties and the enforcement of the Restrictions, these By-Laws, and any Rules and Regulations made pursuant thereto.

E. Officers and Directors Liability Insurance covering the Officers and Directors of the Association acting in such capacity.

F. A fidelity bond naming the Manager, and such other persons as may be designated by the Board as principals and the Board, Association and Members as obligees, in an amount to be determined from time to time by the Board.

G. Painting, maintenance, repair, replacement and landscaping of the Common Properties. The Board shall also have the exclusive right from time to time to acquire and dispose of by sale or otherwise and without the necessity of approval by any Member, furnishings and equipment and other personal property for the Common Properties and to provide maintenance, repair and replacement thereof.

H. Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Board is required to secure or pay for pursuant to the terms of the Restrictions, these By-Laws or any Rules or Regulations promulgated hereunder or which, in its opinion, shall be necessary or advisable for the operation of the Common Properties or for the enforcement of the Restrictions, these By-Laws, or the Rules and Regulations.

The Board shall have the exclusive right to contract for all goods, services, including security personnel, and insurance, payment for which is to be made a Common Expense. The provision shall not be construed to prohibit the Board from delegating such authority to the Manger as it deems proper.

5.08. Additional Powers of the Board. The Board shall have the right to acquire, operate, lease, manage; mortgage and otherwise trade and deal with the Common Properties as may be necessary or convenient in the operation and management of the Common Properties, and in accomplishing the purposes set forth herein. The Board or any managing agent or entity designated by the Board shall be deemed the agents of the Members and as such shall manage, maintain and improve the Common Properties and also collect, conserve, allocate and expend money received from the Members in a manner consistent with such agent's relationship and in conformity with the Restrictions, these By-Laws and the Rules and Regulations.

5.09 Meeting of the Board. Meetings of the Board shall be held at such places within or without the State of Tennessee as the Board shall determine. Three (3) members of the Board shall constitute a quorum, and if a quorum is present, the decision of a majority of those present shall be the act of the Board. Meetings of the Board shall be chaired by the President of the Association and the minutes shall be recorded by the Secretary of the Association, whether said Secretary is a member of the Board or not. The Board shall annually elect all of the officers set forth in Section 6.05 hereof. The meeting for the election of officers shall be held at a meeting of the Board to be held immediately following the annual meeting of the Association. Any action required to be or which may be taken by the Board may be taken without a meeting of the Board pursuant to a written consent, setting forth the action so taken, signed by all members of the Board.

5.10 Special Meetings. Special meetings of the Board may be called by the President of the Association or by any two (2) Board members.

5.11 Notice of Meetings. Regular meetings of the Board may be held without call or notice. The person or persons calling a special meeting of the Board shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called. If an agenda is prepared for such a meeting, the meeting need not be restricted to discussions of those items listed on the agenda.

5.12 Waiver of Notice. Any members of the Board may, at any time, waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting thereof shall constitute a waiver of notice of such meeting unless a Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called and does so object by delivering a written document to that effect.

5.13 Notice of Election. After the election of the Board to succeed the first Board, the Secretary of the Association shall execute and, where desirable, acknowledge and record a certificate stating the names of all of the members of the then Board, provided, that, in the event of the disability or other incapacity of the Secretary, the President of the Association shall be empowered to execute the

aforesaid certificate. The certificate shall be conclusive evidence thereof in favor of all persons who rely thereon in good faith.

5.14 Fiscal Year. The fiscal year of the Association shall be the calendar year unless and until otherwise determined by the Board.

5.15 Special Committees. The Board, by resolution duly adopted, may designate one or more special committees, including without limitation an Architectural Review Committee, each committee to consist of two (2) or more Members appointed by the Board, which, to the extent provided in said resolution, shall have and may exercise the powers set forth in said resolution. The Board may also rescind any such resolution by a further resolution duly adopted. Such Special Committee or Committees shall have such name or names as may be determined from time to time by the Board. Such Special Committees shall keep regular minutes of their proceedings and report the same to the Board when required. The Board may appoint Members to fill vacancies on Special Committees.

5.16 Rules and Regulations. The Board shall have the power and right to adopt and amend rules and regulations for the purpose of governing the details of the operation and use of the Common Properties and setting forth restrictions on, and requirements respecting the use and maintenance of the Common Properties. Copies of the Rules and Regulations shall be furnished to each Member prior to the time the same shall become effective.

5.17 Limitation on Capital Additions, Etc. The Board shall authorize no structural alterations, capital additions to, or capital improvements of the Common Properties (unless the same are expressly set forth in the approved budget for the current fiscal year), any of which require an expenditure in excess of One Thousand Dollars (\$1,000.00) without approval of a majority of the votes of those Members who are present or represented at any annual or special meeting of the Association duly called for such purpose; or in excess of Ten Thousand Dollars (\$10,000.00) without approval of sixty-seven percent (67%) of the votes of those Members who are present or represented at any annual or special meeting of the Association duly called for such purpose; provided, however, that the Board shall have the power to make any such structural alterations, capital additions to, or capital improvements of, the Property as are necessary, in the Board's reasonable judgment, to preserve or maintain the integrity thereof without obtaining such approval, if in the opinion of the Board an emergency exists which should be corrected before a meeting of the Association could be reasonably called and held.

5.18 Failure to Insist on Strict Performance Not Waiver. The failure of the Board or its agents to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions in the Restrictions or these By-Laws, or the Rules and Regulations or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment, for the future, of such term, covenant, condition or restriction, right, option or notice; but such term, covenant, condition or restriction, right, option or notice shall remain in full force and effect.

ARTICLE VI THE ASSOCIATION; MEETINGS, OFFICER, ETC.

6.01 Quorum. The presence in person or by proxy at any meeting of the Association of twenty-five percent (25%) of the Members in response to notice to all Members properly given in accordance with Sections 6.02 or 6.03 of these By-Laws, as the case may be, shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Association upon the affirmative vote of Members entitled to cast a majority of the votes which are represented at such meeting.

6.02 Annual Meeting. There shall be an annual meeting of the Association on the first Monday of _____ at 6:00 P.M. at such reasonable place or other time (but not more than sixty (60) days before or after such date) as may be designated by written notice of the Board delivered to the Members not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to the annual meeting, the Board shall furnish to the Members (1) a budget for the coming fiscal year that shall itemize the estimated Common Expenses of the coming fiscal year that shall itemize the estimated allocation thereof to each Member; and (2) a statement of the Common Expenses itemizing receipts and disbursements for the previous and, if then available, for the current fiscal year, together with the allocation thereof to each Member. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the Members who were not present at the annual meeting if not previously provided.

6.03 Special Meeting. Special meetings of the Association may be held at any time and at any reasonable place to consider matters which, by the terms hereof, require the approval of all or some of the Members, or for any other reasonable purpose. Special meetings may be called by a majority of the Board, or by at least ten percent (10%) of the Members by written notice, delivered to all Members not less than thirty (30) days prior to the date fixed for said meeting. The notice shall specify the date, time and place of the meeting, and the matters to be considered.

6.04 Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with these By-Laws or other such rules adopted by the Board.

6.05 Officers. The officers of the Association shall be a President, Secretary and Treasurer. Each officer shall be required to be a Member, and the President must be a member of the Board. No officer shall receive compensation for serving as such. Officers shall be annually elected by the Board and may be removed and replaced by the Board. In the event an office becomes vacant due to an officer ceasing to be a Member, or due to the death or disability of an officer, or for any other reason, the Board shall immediately name a successor to that office to serve out the remainder of the term. The Board may, in its discretion, require that officers be subject to fidelity bond coverage.

A. President. The President shall be the chief operating officer of the Association and shall preside at all meetings of the Association and of the Board and may exercise the powers ordinarily allocable to the presiding officer of an association, including the appointment of committees. The President shall have the authority and power to execute on behalf of the Association contracts, notes, bonds, mortgages, deeds of trust, security deeds, leases, waivers of liens and other documents and instruments arising in the ordinary course of business.

B. Secretary. The Secretary shall keep the minutes of all proceedings of the Board and of the meetings of the Association and shall keep such books and records as may be necessary and appropriate for the records of the Association and the Board, including the minute book wherein the resolutions shall be recorded.

C. Treasurer. The Treasurer shall be responsible for the fiscal affairs of the Board and the Association, but may delegate the daily handling of funds to the Manager and accounting to accountants selected by the Board.

ARTICLE VII
LIABILITY AND INDEMNIFICATION

7.01 Liability of Members of the Board and Officers. The members of the Board, the officers and any agents and employees of the Association shall: (i) not be liable to the Members or Association as a result of their activities as such for any mistake of judgment, or otherwise, except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (ii) have no personal liability to a Member or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Members in their capacity as such; (iii) have no personal liability in tort to a Member or any other person or entity direct or imputed by virtue of acts performed by them as Board members and/or officers except for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; and (iv) have no personal liability arising out of the use, misuse or condition of the Property, or which might in any other way be assessed against or imputed to them as a result or by virtue of their capacity as such Board members and/or officers.

7.02 Indemnification by Association. To the extent now or hereafter permitted by applicable law, the Association shall indemnify and hold harmless any person, his heirs and personal representatives, from and against any and all personal liability, and all expenses, including without limitation counsel fees and court costs, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suite or proceeding, whether civil, criminal, administrative or investigative instituted by any one or more Members or any other persons or entities, to which he shall be or shall be threatened to be made a party by reason of the fact that he is or was a member of the Board or an officer or agent or employee of the Association; provided, in the case of any settlement, that the Board shall have approved the settlement, which approval is not to be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or by vote of the Association of the Board, or otherwise. The indemnification by the Association set forth in this Article VII shall be paid by the Board on behalf of the Association and shall constitute a Common Expense.

7.03 Costs of Suit in Actions Brought by One or More Members on Behalf of All Members. No suit shall be brought by one or more but less than all Members on behalf of all Members without approval of a majority of Members and, if approval is obtained, the plaintiffs' expenses, including reasonable counsel's fees and court costs, shall be a Common Expense unless such suit is brought by one or more Members against other Members, the Association or against the Board, the officers, employees, or agents thereof, in their capacities as such, with the result that the ultimate liability asserted would, if proved, be borne by all Members as defendants, in which event the plaintiffs' expenses, including counsel's fees and court costs, shall not be charged as a Common Expense.

7.04 Notice of Suit and Opportunity to Defend. Suits brought against the Association, or the Board, or the officers, employees or agents thereof, in their respective capacities as such, or the Common Properties as a whole, shall be directed to the President of the Association, who shall promptly give written notice thereof to the other members of the Board and any mortgagees, and shall be defended by the Board, and the Association and all Members shall have no right to participate other than through the Board in such defense. Suits against one or more, but less than all Members shall be directed to such Members, who shall promptly give written notice thereof to the Board and to the mortgagees of the Lots affected, and shall be defended by such Members at their expense.

ARTICLE VIII
GENERAL PROVISIONS

8.01 Businesses. Nothing contained in these By-Laws shall be construed to give the Board the authority to conduct any business for profit on behalf of the Association or any Member.

8.02 Amendment. These By-Laws may be amended, modified, or revoked in any respect from time to time by not less than sixty-seven percent (67%) of the votes of those Members of the Association who are present or represented at a meeting duly called for that purpose, PROVIDED, HOWEVER, that the contents of these By-Laws shall always contain those particulars which are required to be contained herein by the laws of the State of Tennessee. Notwithstanding the foregoing, any amendment shall not be required to be recorded with the Recorder's Office but must be kept on file with the Secretary and available to all Members upon written request.

8.03 Notices. Any notice required to be sent to any Member under the provisions of these By-Laws shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Member on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary in writing of any change of address. Any notice required to be sent to the Board, the Association or any officer thereof, under the provisions of these By-Laws shall likewise be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to such entity or person at the following address:

110 McCullough Road
Cleveland, Tennessee 37323

8.04 Conflict. In the event of any conflict between these By-Laws and the provisions of the Charter, the Charter shall control and govern. In case of any conflict between the Restrictions and these By-Laws, the Restrictions shall control and govern.

8.05 Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provision contained in the Restrictions or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

8.06 Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Restrictions and these By-Laws shall be deemed to be binding on all Members, their heirs, successors and assigns.

8.07 Severability. The invalidity of any covenant, restriction, condition, limitation or any other provisions of these By-Laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of these By-Laws.

8.08 Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Restrictions, the Charter and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable costs.

ADOPTION OF BY-LAWS

The undersigned as the Incorporator hereby adopts the foregoing By-Laws of the Association, this _____ day of _____, 2006.

Ross I. Schram III, Incorporator