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Willow Point HOA
1401 East Bank Dr
Marietta, Ga. 30068

DECLARATION OF ADDITIONAL COVENANTS

FOR WILLOW POINT

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- TABLE OF CONTENTS -

	<u>Page</u>
1. NAME.....	1
2. DEFINITIONS.....	1
3. PROPERTY DESCRIPTION	3
4. EFFECTIVE DATE.....	3
5. ASSOCIATION RIGHTS AND RESTRICTIONS.....	3
6. INSURANCE.....	4
7. REPAIR AND RECONSTRUCTION.....	5
8. USE AND ENJOYMENT OF COMMON AREAS.....	6
9. ASSOCIATION MEMBERSHIP & VOTING RIGHTS.....	6
10. ASSESSMENTS	7
11. MORTGAGEE RIGHTS.....	9
12. DURATION.....	10
13. AMENDMENT.....	10
14. USE RESTRICTION.....	10
15. ASSOCIATION MAINTENANCE RESPONSIBILITIES.....	11
16. GENERAL PROVISIONS.....	11
17. SEVERABILITY.....	12
18. PREPARER.....	12

- LIST OF EXHIBITS -

DESCRIPTION OF COMMON AREAS.....	"A"
MODEL CONSENT FORM.....	"B"

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STATE OF GEORGIA

COUNTY OF COBB

DECLARATION OF ADDITIONAL COVENANTS

FOR WILLOW POINT

THIS DECLARATION is adopted on the date hereinafter set forth by Willow Point Home Owners Association, Inc. The real property described in Exhibit "A" of this Declaration, including the improvements constructed or to be constructed thereon, and any additional property which is hereafter subjected to this Declaration, shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the land and the title to, the real property now or hereafter made subject to this Declaration, and shall be binding on all persons having any right, title, or interest in all or any portion of such real property, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

1. NAME.

The name of the property is Willow Point (hereinafter sometimes called "Association"), which property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982).

2. DEFINITIONS.

Generally, terms used in this Declaration, the By-Laws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the By-Laws, and the Articles of Incorporation shall be defined as follows:

(a) Act shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as such act may be amended from time to time.

(b) Additional Property means those Lots as shown on the Willow Point Plats which shall, upon execution of a Consent in accordance with terms of this Declaration, become a portion of the Subject Property.

(c) Articles or Articles of Incorporation mean the Articles of Incorporation of the Willow Point Home Owners Association, Inc., as filed with the Secretary of State of the State of Georgia.

(d) Association shall mean Willow Point Home Owners Association, Inc. a Georgia nonprofit corporation, its successors or assigns.

(e) Association Legal Instruments means this Declaration and all exhibits hereto, and the Willow Point Plats, all as may be supplemented or amended.

(f) Board or Board of Directors shall mean the elected body responsible for management and operation of the Association.

- (g) By-Laws mean the By-Laws of Willow Point Home Owners Association, Inc.
- (h) Common Area shall mean all real property owned by the Association for the common use and enjoyment of the Members.
- (i) Common Expenses mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, improving and operating the Common Area and otherwise for the benefit of the Association and its Members.
- (j) Effective Date means the date as is further defined in paragraph 4 hereof.
- (k) Eligible Mortgage Holder means a holder of a first mortgage secured by a Lot, which Lot is a portion of the Subject Property, who has requested notice of certain items as set forth herein.
- (l) Lot means a portion of the property as shown on the Willow Point Plats which is intended for ownership and use as a single-family dwelling site.
- (m) Majority means those eligible votes, Owners, or other group as the context may indicate totalling more than fifty (50%) percent of the total eligible number.
- (n) Member shall mean a member of the Association, including Permanent Members and Voluntary Members.
- (o) Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.
- (p) Mortgagee or Mortgage Holder means the holder of any Mortgage.
- (q) Occupant means any Person occupying all or any portion of a dwelling or other property located within the Subject Property for any period of time, regardless of whether such Person is a tenant or the Owner of such property.
- (r) Officer means an individual who is elected by the Board to serve as President, Vice President, Secretary, or Treasurer, or such other subordinate officers as the Board may determine necessary.
- (s) Owner means the record title holder of a Lot, but shall not include a Mortgage Holder.
- (t) Permanent Member shall mean a person who is the Owner of a Lot which has been subjected to permanent membership in the Association by written consent recorded in the Cobb County, Georgia land records, and which Lot is, therefore, a portion of the Subject Property.
- (u) Permanent Member Lot shall mean a Lot subjected to permanent membership in the Association hereunder and which Lot is, therefore, a portion of the Subject Property.
- (v) Person means any individual, corporation, firm, association, partnership, trust, or other legal entity.
- (w) Subject Property means those Lots which are submitted to the Act and the provisions of this Declaration, as described in the written consents attached hereto to Exhibit "A" which Exhibit and consents are incorporated herein by reference or as recorded subsequent to the recording of this Declaration, in accordance with the terms of this Declaration. The Subject Property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act,

THIS DECLARATION SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

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O.C.G.A. § 44-3-220, et seq. (Michie 1982), as may be amended. By recordation of this Declaration and the consents, in accordance with section 4 below, the Common Area is submitted to this Declaration and shall be deemed a part of the Subject Property.

(x) Voluntary Member shall mean a person who is an owner of a Lot and who has been granted privileges of membership in the Association, as further described herein, but who is not a Permanent Member.

(y) Willow Point Plats shall mean those certain plats recorded in the plat records of Cobb County, as follows:

<u>Plat Book</u>	<u>Page</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

These plats are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

3. PROPERTY DESCRIPTION.

The Subject Property is more particularly described on the Consents which are attached hereto to Exhibit "A" or which are subsequently recorded in accordance with the terms of the Declaration.

4. EFFECTIVE DATE.

This Declaration shall not be effective, whether or not it is recorded, until and unless (1) at least one-hundred and fifty (150) Owners have executed one or more written consents on or before September 4, 1995 (the "Enrollment Period") which consents are substantially in the form of the Consent attached hereto as Exhibit "B" and incorporated herein by this reference and (2) this Declaration and such Consents have been recorded in the records of Cobb County on or before thirty days following the end of the Enrollment Period and (3) the President and another officer of the Association have executed the statement which is indicated on the last page of this Declaration in which they certify that at least the proper number of Consents are being recorded with this Declaration. Additional Consents, by Owners of Lots within the Additional Property may be recorded at any time and from time to time subsequent to the recording of this Declaration, subject to the terms of this Declaration. All Consents shall be executed by at least one officer of the Association.

5. ASSOCIATION RIGHTS AND RESTRICTIONS.

The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of all other rights it may have:

(a) to make and to enforce reasonable rules and regulations governing the use of the Common Area;

(b) to enforce the provision of this Declaration and the By-Laws and rules and regulations concerning the Common Area by imposing reasonable monetary fines, suspending use and voting privileges and services paid for as a Common Expense, as provided herein and in Section 44-3-223 of the Act, as well as through any other legal or equitable means, self-help or towing of vehicles (upon 24 hours notice). These powers, however, shall not limit any other legal means of enforcing the Declaration,

Bylaws and rules and regulations by either the Association or, in an appropriate case, by an aggrieved owner. Any fines imposed shall be considered an assessment against a Permanent Member's Lot;

(c) to grant permits, licenses, utility easements, and other easements, permits, or licenses necessary for the proper maintenance or operation of the Common Area under, through, or over the Common Area, as may be reasonably necessary to or desirable for the ongoing development and operation of the Common Area;

(d) to control, manage, operate, maintain, replace and, in the Board's discretion, improve all portions of the Common Area in accordance with the provisions of this Declaration;

(e) to deal with the Common Area in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of this Declaration;

(f) to represent the Members in dealing with governmental entities;

(g) to close permanently or temporarily any portion of the Common Area with, except in emergency situations, sixty (60) days prior notice to all Members; provided, however, the Permanent Members may re-open the closed Common Area by a majority vote of the total Association vote, cast at a duly called special or annual meeting;

(h) to acquire, hold, and dispose of tangible and intangible personal property and real property.

6. INSURANCE.

(a) The Association's Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

(b) The Board shall obtain a public liability policy applicable to the Common Area covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its Members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

(c) Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its members. Such insurance shall be governed by the provisions hereinafter set forth:

i) All policies shall be written with a company licensed to do business in Georgia.

ii) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

iii) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by

individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

iv) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Common Area is located.

(e) In addition to the other insurance required by this Paragraph, the Board shall obtain workmen's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and if determined necessary in the determination of the Board, a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment.

7. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Common Area as a result of fire or other casualty, unless eighty (80%) percent of the members vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of substantial damage or destruction, the institutional holder of a first Mortgage on the Common Areas, if any, shall be entitled to written notice of the damage.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Common Area, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Lot) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Permanent members without the necessity of a vote of the Permanent Members or compliance with Paragraph 10(f) below. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Common Areas was originally constructed, except where changes are necessary to comply with current applicable building codes. To the extent insurance proceeds are available, the Association may reconstruct or repair owner improvements damaged as a result of fire or other casualty.

(d) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Permanent Members on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board.

8. USE AND ENJOYMENT OF THE COMMON AREA.

(a) Every Permanent Member shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to his or her Lot and every Voluntary Member shall have a license to use and enjoy the Common Area which shall cease upon the sale of the Voluntary Member's Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Area, to limit the number of guests of Members and tenants of Members who may use the Common Area, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by a Member, his or her family, tenants, guests, and invitees;

(ii) the right of the Association to suspend the voting rights of a Permanent Member and the right of the Association to suspend the right of any Member to use the Common Area (and in the case of Voluntary Members, to suspend or revoke) for any period during which any assessment against a Member and his or her Lot, as applicable, remains unpaid and for a reasonable period of time for an infraction of the Declaration, By-Laws, or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for Member or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Subject Property (Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Member, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Subject Property.); and

(iv) the right of the Association to dedicate or transfer all or any portion of the Common Area subject to such conditions as may be agreed to by two-thirds (2/3) of the Permanent Members of the Association.

9. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

(a) Membership. Each Person who is the record owner of a fee or undivided fee interest in any Lot, and whose Lot is submitted to permanent membership in the Association by written consent recorded in the Cobb County, Georgia land records, shall be a Permanent Member of the Association and shall be entitled to vote as set forth herein and in the By-Laws of the Association. Permanent Member status shall be appurtenant to and may not be separated from ownership of such Lot.

Membership also may be offered in the discretion of the Association on a voluntary basis for Owners whose Lots have not been submitted to membership in the Association by recorded written consent (i.e. Voluntary Members), which voluntary membership shall be contingent upon payment of dues and compliance with the Declaration, Bylaws and rules and regulations of the Association.

The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Permanent Member's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the By-Laws. Any right to vote and to hold office

may be exercised by a Permanent Member or the Permanent Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

(b) Voting. Permanent Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it. Voluntary Members shall not be entitled to (1) vote on any matter, including but not limited to, voting on an amendment to the Declaration and (2) serve on the Board.

10. ASSESSMENTS

(a) General. The Association shall have the power to levy assessments or dues against all Members as provided herein. The assessments for common expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Common Area by the Members as may be more specifically authorized from time to time by the Board. Except as otherwise provided herein, each Lot subject to assessments hereunder is hereby allocated equal liability for common expenses.

(b) Permanent Members of the Association: Creation of the Lien and Personal Obligation For Assessments. Each Owner of a Permanent Member Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed for violations of this Declaration, the By-Laws or the rules and regulations of the Association.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, in the maximum amount permitted under the Act, shall be a charge on such Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner of a Permanent Member Lot and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include acceleration of the unpaid portion of any annual assessment for delinquent Owners upon ten (10) days written notice.

The lien provided for herein shall have priority as provided in the Act.

No Member may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Area, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

(c) Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Member shall be in default. The annual assessment shall be due on such date as is established from time to time by the Board. The Board may provide that the annual assessment may be paid in installments.

i) If the annual assessment or any installment of the annual assessments is not paid in full by the date set forth by the Board or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid may be imposed without further notice or warning to the delinquent Member and interest at

the highest rate permitted by the Act (or by law, as to Voluntary Members) shall accrue from the due date.

ii) If part payment of assessments and related charges is made, the amount received shall be applied first to costs and attorney's fees, as applicable, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.

iii) For Owners whose Lots are subjected to permanent membership in the Association hereunder, if assessments and other charges or any part thereof due from an Owner remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, and the Act and suspend the Owner's right to use the Common Area (provided, however, the Board may not limit ingress or egress to or from the Lot).

iv) For Voluntary Members, if assessments or other charges, or any part thereof, due from an Owner remain unpaid more than thirty (30) days, in addition to any other remedy provided herein or by law, the Association may suspend or revoke such Owner's membership in the Association upon ten (10) days written notice.

(d) Computation of Operating Budget and Assessment.

i) Budget. The Board shall, at least thirty (30) days prior to the beginning of the Association's fiscal year, prepare a budget covering the estimated costs of operating the Common Areas during the coming year. The budget shall include amounts to cover anticipated common expenses of operating, maintaining and repairing all Common Area owned by the Association, including landscaped areas, fences on the Common Area, Common Area lighting, and a reserve or capital contribution related thereto. The budget also shall include amounts to cover anticipated common expenses in enforcing this Declaration, the By-Laws and the rules and regulations of the Association. The budget shall reflect anticipated income to be received from Voluntary Members, and the Permanent Member assessment shall be determined from the budget reflecting anticipated Voluntary Member contributions.

The Board shall cause the budget and notice of the assessments to be levied against each Member for the following year to be delivered to each Member at least fifteen (15) days prior to the Association's annual budget meeting or at least thirty (30) days prior to the beginning of the annual assessment period. The budget and the assessment shall not become effective unless approved at a duly called and constituted annual or special meeting of the Association by a vote of a majority of the Permanent Members, attending such meeting, in person or by proxy; provided, however, if a quorum is not obtained at the annual or special meeting, the budget shall become effective even though a vote to approve the budget could not be called at such meeting. Notwithstanding the foregoing, however, in the event that the Permanent Members do not approve the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the Members at least thirty (30) days prior to the proposed effective date thereof. Notwithstanding anything herein to the contrary, subsequent to the approval of the initial budget by the Permanent Membership following the recording of this Declaration, any subsequent budget shall not increase more than twenty (20%) percent over the prior year's budget unless approved by at least two-thirds (2/3) of the Permanent Members eligible to vote.

The Board shall establish the annual assessment chargeable to Voluntary Members as one hundred and fifty percent (150%) of the assessment chargeable to Permanent Members. Each Voluntary Member shall be personally liable for all assessments as well as for any other Common Expenses occasioned by the conduct of the Voluntary Member or the Voluntary Member's guests or invitees.

(e) Initiation Fee. Subsequent to the Enrollment Period, the Board may, in its discretion, require an initiation fee in order to become a Permanent Member.

(f) Special Assessments. In addition to the annual assessment provided for in Section (d) above, the Board may at any time levy a special assessment against all Permanent Members for any purpose. Notice of a proposed special assessment shall be sent to all Permanent Members. Prior to becoming effective, any special assessment first shall be approved by the affirmative vote of at least two-thirds (2/3) of the eligible Permanent Members. Notice of any meeting concerning such special assessment shall specify the purpose for the meeting.

(g) Capital Budget and Contribution. The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in Section(d) above.

(h) Specific Assessments. In the discretion of the Board, any Association Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots, including but not limited to reasonable attorneys fees actually incurred by the Association, may be specially assessed against such Lot or Lots. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

11. MORTGAGEE'S RIGHTS

(a) Mortgagee Approval of Actions. Unless at least two-thirds (2/3) of the first Mortgagees or Lot Owners give their consent, the Association shall not:

(i) by act or omission seek to abandon or terminate the Property or the Association; (ii) change the pro rata interest or obligations of any individual Lot for the purpose of (1) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; (iii) partition or subdivide any Lot; (iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area (the granting of utility easements or easements for public purposes consistent with the intended use of the Common Area by the Association or architectural changes, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or (v) use hazard insurance proceeds for losses to any portion of the Subject Property for other than the repair, replacement, or reconstruction of such portion of the Subject Property.

The provisions of this Section shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Lot Owners where a larger percentage vote is otherwise required hereunder for any of the actions contained in this Section.

(b) Mortgagee Assessments Upon Foreclosure. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Permanent Member Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from Owners of all the Permanent Member Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) Mortgage Notices. Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any holder of a first mortgage secured by a Permanent Member Lot in the Subject Property who has requested notice of certain items as set forth in this Declaration (hereinafter "Eligible Mortgage Holder") will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of the Subject Property or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder; (ii) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Lot Owner of any other obligation under the Declaration or By-Laws which is not cured within sixty (60) days; (iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or (iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

(d) Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

12. DURATION.

The covenants and conditions of this Declaration shall run with and bind the Subject Property and the Common Area perpetually to the extent provided in the Act.

Notwithstanding anything herein to the contrary, neither the foreclosure of one or more Permanent Member Lots subsequent to the recording of this Declaration nor the fact that as a result of foreclosure, there are less than one-hundred fifty Permanent Members at any time or from time to time, shall effect the validity and enforceability of this Declaration.

13. AMENDMENT.

Except where a higher vote is required for action under any other provisions of this Declaration, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Permanent Members of the Association holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Cobb County, Georgia land records.

Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

14. USE RESTRICTIONS.

Any covenants, conditions or restrictions, including, but not limited to those use restrictions which existed prior to the recording of this Declaration and the ability to enforce such restrictions, by any Person, shall not be altered, amended or affected by this Declaration. All Persons entitled to enforce such restrictions shall be entitled to continue to do so. Furthermore, the Association shall not have the powers as enumerated in O.C.G.A. § 44-3-231 (a) (3) which section would otherwise give the Association the power to: grant or withhold approval of any action by one or more lot owners or other persons entitled to occupancy of any lot if such action would change the exterior appearance of any lot, or any structure thereon, or of any other portion of the development or elect or provide for the appointment of an architectural control committee to grant or withhold such approval.

Each Member shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association as each applies to the Common Areas. Furthermore, each Member and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Member's family, guests, tenants or Occupants, the Association may take action under this Declaration against the Member as if the Member committed the violation in conjunction with the Member's family, guests, tenants or Occupants.

Use restrictions regarding use of the Common Areas are as follows and also as may be adopted by the Board in rules and regulations and as specified in the By-Laws:

(a) Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on any part of the Common Area, without prior written Board consent, except as specifically provided herein.

With prior written Board approval, and subject to any restrictions imposed by the Board, a Member or Members may reserve portions of the Common Area for use for a period of time as set by the Board. Any such Member or Members who reserve a portion of the Common Area hereunder shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Area and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

(b) Prohibition of Damage, Nuisance and Noise. Noxious, destructive or offensive activity shall not be carried on upon the Common Area. Each Member shall refrain from any act or use of the Common Area which could reasonably cause embarrassment, discomfort, nuisance or annoyance to other Members or their guests, tenants or invitees. No Member may use or allow the use of the Common Area in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Members, their guests, tenants or invitees or in such a way as to constitute, in the Board's sole opinion, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Member to proceed individually for relief from interference with his or her property or personal rights.

15. ASSOCIATION MAINTENANCE RESPONSIBILITY.

The Association shall maintain, keep in good repair and, in the Board's discretion, improve, the Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement subject to any insurance then in effect, of all landscaping grass areas, paving and other improvements situated on the Common Area. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

16. GENERAL PROVISIONS.

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Common Area; however, each Member, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Common Area. It shall be the responsibility of each Member to protect his or her person and property and all responsibility to provide security shall lie solely with each Member. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) No Discrimination. No action shall be taken by the Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

(c) Indemnification. The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

(d) Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

17. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

18. PREPARER.

This Declaration was prepared by Weissman, Nowack, Curry & Zaleon, P.C., 181 Fourteenth Street, Second Floor, Atlanta, Georgia 30309.

[Signatures begin on page following]

IN WITNESS WHEREOF, the undersigned officers of the Willow Point Home Owners Association, Inc., hereby certify that the above Declaration was consented to by at least one hundred and fifty (150) Owners and the consents of such Owners are being recorded with this Declaration.

This 9 day of September, 1995.

Willow Point Home Owner's Association, Inc.

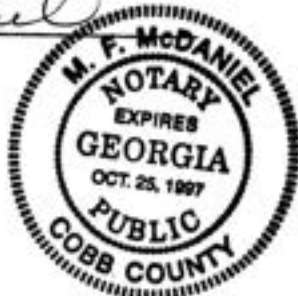
By: Michael D. Desser [SEAL]
President

Attest: Peggy A. Fitzgerald [SEAL]
Secretary

[SEAL]

Signed, sealed, and delivered
this 9 day of September,
1995 in the presence of:

M. F. McDaniel
WITNESS
M. F. McDaniel
NOTARY PUBLIC



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EXHIBIT "A"

Property Initially Submitted

The property initially submitted to the terms and conditions of the Declaration shall be those Lots, as defined in the Declaration, for which the Owner of the Lot has executed a Consent, consenting to and submitting the Lot to the Declaration. The Consents executed by Owners submitting their Lots to the Declaration are attached hereto and incorporated herein by reference.

The property initially submitted to the terms and conditions of the Declaration shall also include the following:

(Legal Description of Common Area)

LL 210, Block D, Lot 11 - Plat Book 57, Page 144
5371 Willow Point Parkway
Marietta, GA 30068

LL 210, Block D, Lot 12 - Plat Book 57, Page 144
5361 Willow Point Parkway
Marietta, GA 30068

LL 210, Block A, Lot 21 - Plat Book 57, Page 194
5336 Willow Point Parkway
Marietta, GA 30068

EXHIBIT "B"
MODEL CONSENT FORM

INDEXING NOTE:

Index in Grantor Index under _____

[Owner(s) Name(s)]

STATE OF GEORGIA
COUNTY OF COBB

OWNER CONSENT TO SUBMISSION TO THE DECLARATION OF ADDITIONAL COVENANTS
FOR WILLOW POINT AND TO PASSAGE OF THE AMENDED AND RESTATED BY-LAWS
FOR WILLOW POINT HOME OWNERS ASSOCIATION, INC.

THIS CONSENT is made and entered into on this _____ day of _____, 199__.

W I T N E S S E T H

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is the record owner and holder of title in fee simple to property known as Block _____, Lot _____, as shown in Plat Book _____ Page _____ as recorded in the Cobb County, Georgia records such description being incorporated herein by this reference (hereinafter "Owner's Property") and being more commonly referred to as _____, Georgia; and

WHEREAS, Owner desires to submit Owner's Property to the Declaration of Additional Covenants for Willow Point ("Declaration") as a Permanent Member of the Association, as defined in the Declaration to which this Consent is attached ("Declaration") and which is incorporated herein by this reference; and

NOW, THEREFORE, Owner does, by executing this Consent, hereby consent, on behalf of Owner, Owner's successors, heirs, and assigns, that from and after the date of this Consent, Owner's Property shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Permanent Member of the Association (as defined in the Declaration), all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to Permanent Membership in the Association, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with the Declaration and the Georgia Property Owner's Association Act.

Owner does further consent to the submission of the Common Area, as defined in the Declaration, to the terms of the Declaration and to the passage of the Amended and Restated Bylaws for Willow Point Home Owners Association, Inc.

Notwithstanding anything herein to the contrary, Owner's submission and consents herein are contingent on the Association receiving at least one hundred (100) Consents.

IN WITNESS WHEREOF, Owner does hereby execute this Consent under seal on the day and year first above written.

OWNER(S):

(Print Names)

Signature (SEAL)

Signature (SEAL)

Address

Signed, sealed, and delivered this
_____ day _____, 199__
in the presence of:

Witness

Notary Public

(NOTARY SEAL)

Consented to by:

Willow Point Home Owners
Association, Inc.

By: _____
Its President

(SEAL)

Signed, sealed, and delivered this
_____ day of _____, 199__
in the presence of:

Witness

Notary Public

(NOTARY SEAL)