

Wyndham

Declaration of Covenants, Easements and Restrictions

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DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS
FOR WYNDHAM
FULTON COUNTY, GEORGIA

After Recording Return to:
Ganek, Wright & Dobkin, P.C.
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Table of Exhibits

Exhibit "A"
Exhibit "B"
Exhibit "C"

Legal Description
By-Laws
Consent from Owner

Table of Contents for the Declaration of Covenants and Restrictions for Wyndham

<u>Article</u>	<u>Page</u>
I. Definitions	6
II. Town Homes	7
Section 1. Town Homes Hereby Subjected to this Declaration	7
Section 2. Additional Town Homes hereafter subjected to Declaration	8
Section 3. Town Home Boundaries	8
Section 4. All Town Homes Bear Burden and Enjoy Benefits of Declaration	8
Section 5. Easements Over the Town Homes	8
III. Association Property	9
Section 1. Association Property	9
Section 2. Members' Rights in Association Property	9
Section 3. Easements Over Association Property	9
Section 4. Damage or Destruction of Association Property	10
Section 5. Transfer or Encumbrance	10
Section 6. Easement Areas	10
Section 7. Porticos, Stoops and Patios	10
Section 8. Maintenance of Association Property	10
Section 9. Temporary Structures	11
IV. The Association	11
Section 1. The Association	11
Section 2. Membership	11
Section 3. Class of Membership; Voting Rights	11
Section 4. Board of Directors	12
Section 5. Suspension of Membership Rights	12
Section 6. Termination of Membership	12
Section 7. Meetings of the Membership	12
Section 8. Association Acts Through Its Board of Directors	12
Section 9. Professional Management	12
Section 10. Control by Declarant	12
V. Assessments	13
Section 1. Assessments; Lien Therefore	13
Section 2. Personal Obligation of Members	13
Section 3. Capital Contribution	14
Section 4. Purpose of Assessments	14
Section 5. Determination of Annual Assessments and Shares Thereof	14
Section 6. Special Assessments	14
Section 7. Town Homes Owned by Declarant	14
Section 8. Effect of Non-Payment of Assessments; Remedies of Association	15
Section 9. Accumulation of Funds Permitted	15
Section 10. Uniform Rate	15
Section 11. Contribution by Declarant	15
Section 12. Certification of Payment	15
Section 13. Approval by Declarant	16
Section 14. Specific Assessments	16
VI. Architectural Control	16

Section 1. Architectural Control Committee; Creation and Composition	16
Section 2. Purpose, Powers and Duties of the ACC	16
Section 3. Officers, Subcommittees and Compensation	16
Section 4. Operations of the ACC	17
Section 5. Design Standards	17
Section 6. Submission of Plans and Specifications	18
Section 7. Approval of Plans and Specifications	18
Section 8. Disapproval of Plans and Specifications	18
Section 9. Obligation to Act	18
Section 10. Inspection Rights	18
Section 11. Violations	19
Section 12. Certification of Compliance	19
Section 13. Fees	19
Section 14. Non-Discrimination by ACC	19
Section 15. Disclaimer as to ACC Approval	19
VII. Mortgage Provisions	19
Section 1. Notices of Action	20
Section 2. No Priority	20
Section 3. Notice to Association	20
Section 4. Amendments by Board	20
Section 5. VA/HUD Approval	20
Section 6. Association Property	20
Section 7. Amendments	21
Section 8. Special FHLMC Provision	21
Section 9. Applicability of Article	22
Section 10. Failure of Mortgagee to Respond	22
VIII. Damage or Destruction of Town Homes	22
IX. Use Restrictions and Rules	22
Section 1. General	22
Section 2. Single-family Use	22
Section 3. Prohibited Activities	23
Section 4. Nuisances	23
Section 5. Animals	23
Section 6. Signs	23
Section 7. Window Air-Conditioners	23
Section 8. Subdivision of Town Homes	23
Section 9. Unsightly or Unkempt Conditions	23
Section 10. Clotheslines, Garbage Cans, Woodpiles, etc	23
Section 11. Guns	23
Section 12. Solar Devices	23
Section 13. Pools	24
Section 14. Satellite Dishes	24
Section 15. Obstruction of Ingress and Egress	24
Section 16. Enforcement by Members	24
Section 17. Recreational, Commercial Vehicles, Boats, Trailers, Boat Trailers, Utility Trailers	24
Section 18. Occupants Bound	24
Section 19. Lighting	24
Section 20. Drainage	24
Section 21. Detached Structures	24
Section 22. Entry Features and Street Signs	24
Section 23. Basketball Hoops and Goals	24
X. Maintenance of Town Homes and Easement Areas	25
Section 1. Maintenance and Repair of Town Homes, Porticos, Stoops and Patios	25
Section 2. Maintenance of Easement Areas	25

Section 3. Fences	25
Section 4. Failure to Maintain	26
XI. Insurance and Casualty Losses	26
Section 1. Insurance	26
Section 2. Damage and Destruction- Town Homes	26
Section 3. Insurance Deductible	27
Section 4. Additional Insurance	27
Section 5. Town Homes	27
XII. Amendment	27
Section 1. Amendment by Association	27
Section 2. Amendment by Declarant	28
XIII. Enforcement	28
Section 1. Right of Enforcement	28
Section 2. Right of Abatement	28
Section 3. Specific Performance	29
Section 4. Collection of Assessments and Enforcement of Liens	29
Section 5. Arbitration	29
XIV. Easements	30
Section 1. Easements for Utilities	30
Section 2. Easement for Association Maintenance	30
Section 3. Easement for Entry	30
Section 4. Easement for Entry Features and Street Signs	30
XV. Miscellaneous	30
Section 1. Failure of Enforcement	30
Section 2. Waivers	30
Section 3. Perpetuities	31
Section 4. Notices	31
Section 5. Severability	31
Section 6. Enforcement	31
Section 7. Successors to Declarant	31
Section 8. Construction and Sale Period	31
Section 9. Duration	31
XVI. General Provisions	32
Section 1. Gender and Grammar	32
Section 2. Captions	32
Section 3. Preparer	32
Section 4. Conveyance of Association by Declarant to Association; Assignment of Contracts	32
Section 5. Indemnification	32
Section 6. Books and Records	32
Section 7. Financial Statements	32
Section 8. Notice of Sale or Lease	32
Section 9. Agreements	33
Section 10. Variances	33
Section 11. Litigation	33
Section 12. Implied Rights	33
Legal Description Exhibit "A"	35
By-Laws Exhibit "B"	36

DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR WYNDHAM
FULTON COUNTY, GEORGIA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made on this day of July in the year Two Thousand Three by Beazer Homes Corp., (hereinafter referred to as the "Declarant").

WHEREAS, SBK Development, LLC owns all of that certain real property located in Land Lots 757 and 828 of the 2nd District, Fulton County, Georgia, which real property is more particularly described on Exhibit "A", hereto attached and made a part hereof (the "Property"); and

WHEREAS, by the consent attached hereto as Exhibit "C", Owner's hereby consent to Beazer Homes Corp. as Declarant.

WHEREAS, the Declarant intends to develop, the Property, for residential purposes by the construction thereon of single family Town Homes; and

WHEREAS, the Declarant desires to provide open spaces, parks, green belts and other facilities for the benefit of the persons who shall reside in the aforesaid Town Homes; and

WHEREAS, in order to insure the enjoyment of such open spaces, parks, green belts and other facilities by the residents of the said Town Homes, and in order to protect and enhance the value of the said Town Homes, it is desirable to create an association to own, maintain and administer such open spaces, parks, green belts and other facilities, and to administer and enforce the covenants and restrictions imposed by this Declaration on the said Town Homes, and to collect, hold and disburse the charges and assessments provided for in this Declaration; and

WHEREAS, it is intended that every owner of any of the said Town Homes automatically, and by reason of such ownership and this Declaration, become a member of the aforesaid association and be subject to its valid rules and regulations and the assessments and charges made by such association;

NOW, THEREFORE, the Declarant does hereby submit the "Town Homes" and the "Association Property" (as those terms are hereinafter defined) to the provisions of this Declaration.

ARTICLE I.
DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article I, such definitions being cumulative of those set forth elsewhere in this Declaration.

"Assessment" shall have the meaning specified in Section 4 of Article V hereof, and shall constitute the monthly, annual, and special assessments which, pursuant to the provisions of Article V hereof, shall be levied by the Association against the Town Homes for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in Section 4 of Article V hereof).

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

"Association" shall mean Wyndham Homeowners Association, Inc., a Georgia non-profit membership corporation.

"Association Property" shall mean all real property which is shown and depicted on any Plat which is neither included with any Town Home nor dedicated to a governmental authority. Association Property shall also include the easement rights identified in Article III, Section 3 of this Declaration. As portions of the Property are subjected to this Declaration, all of the realty

include within the portion of the Property so subjected to this Declaration shall constitute Association Property, except for the parts thereof that shall constitute Town Homes and except for the parts thereof that shall be dedicated to a governmental authority.

"Board of Directors" shall mean the Board of Directors of the Association.

"Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

"Declarant" shall mean Beazer Homes Corp. and shall include any successors or assigns of Beazer Homes Corp. who shall acquire the entire interest in the Property which was owned by the immediate predecessor-in-title of such successor or assign and who shall stand in the same relation to the Property as his immediate predecessor-in-title.

"Declaration" shall mean this Declaration of Covenants and Restrictions, as the same may be hereafter amended in accordance with the terms and provisions of Article XII hereof.

"Easement Area" shall mean each of those portions of the Association Property which are located in the front or rear of the Town Homes and which are shown and depicted on each Plat as "Easement Area"

"First Mortgage" shall mean a Mortgage conveying a first priority lien upon or security title to any Town Homes.

"HUD" shall mean the United States Department of Housing and Urban Development and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

"Patio" shall mean the poured-concrete patio that was laid down and installed within the Easement Area annexed to each Town Home, as part of the original construction of such Town Home.

"Person" shall mean a natural person, corporation, trust, partnership or any other legal entity.

"Plat" shall mean, collectively, the plat that is recorded in the Plat Book Records of Fulton County, Georgia.

"Portico" shall mean the portico that was constructed as part of the original construction of certain of the Town Homes, said portico being located in the front of, and extending across the entire width of, the front boundary of such Town Home. Each Portico is depicted on the Plat that was recorded in connection with the subjecting to the terms of this Declaration of the Town Home to which such Portico is attached.

"Stoop" shall mean the front stoop that was constructed as part of the original construction of each Town Home.

"Town Homes" shall mean each of those parcels of real property, and all improvements located thereon, described in Section 1 of Article II of this Declaration, and shown and depicted as Town Homes on the Plat, and each of those additional parcels of real property, and all improvements located thereon, as may hereafter be subjected to this Declaration as Town Homes in the manner described in Section 2 of Article II of this Declaration.

"VA" shall mean the United States Department of Veterans Affairs and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

All pronouns used in this Declaration are intended to be gender neutral, and the use of the masculine gender shall be deemed to include the feminine and neuter genders.

ARTICLE II.
TOWN HOMES

Section 1. Town Homes Hereby Subjected to this Declaration. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth is the real property described in Exhibit "A" attached hereto and by reference made a part hereof.

The Declarant, for itself, its successors and assigns, hereby further covenants that the above-described property shall hereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Town Homes, including, but not limited to, the lien provisions set forth in Article V hereof. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Town Homes shall be a permanent charge thereon, and shall run with the Town Homes.

Section 2. Additional Town Homes hereafter subjected to this Declaration. Notwithstanding Article VII and anything contained herein to the contrary, Declarant may, at any time, and from time to time, prior to June 1, 2010 subject additional portions of the Property to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Town Homes by:

(a) executing and recording in the Deed Records of Fulton County, Georgia, a supplemental declaration to this Declaration describing such annexed property or additional Town Homes and stating that this Declaration is thereby extended to, and shall thereafter apply to, such annexed property and additional Town Homes; and

(b) recording in the Plat Book Records of Fulton County, Georgia, a Plat showing and depicting the additional Town Homes being thereby subjected to this Declaration. From and after the subjecting of such additional Town Homes to this Declaration, such additional Town Homes shall thereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Town Homes, including, without limitation, all lien and assessment provisions set forth in this Declaration; from and after the subjecting of such additional Town Homes to this Declaration, all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to Town Homes shall be a permanent charge thereon, and shall run with, such additional Town Homes. No approval from any member of the Association, or from anyone else whomsoever, shall be required for the Declarant to subject any portion of the Property to this Declaration as additional Town Homes.

Section 3. Town Home Boundaries. Notwithstanding the depiction of the boundaries of any Town Home on the applicable Plat the boundaries of each Town Home shall be as follows: The side boundary of each Town Home shall be a line consistent with and along the center of all firewalls separating a Town Home from another Town Home. The front and rear boundary, and the side boundary of each Town Home which does not separate a Town Home from another Town Home, shall be a line consistent with and along the outer, exterior surface of the outside wall of such Town Home. In the event of any discrepancy between the boundaries of a Town Home, as described in this Section 3, and the boundaries of such Town Home shown on the applicable Plat, the description of the boundaries of the Town Home set forth in this Section 3 shall control. All of the area within the boundaries of each of the Town Homes, as herein described, and as shown and depicted on the applicable Plat, shall for all purposes constitute real property which may be owned in fee simple, subject to the terms, provisions, liens, charges, covenants, easements and restrictions of this Declaration.

Section 4. All Town Homes Bear the Burdens and Enjoy the Benefits of this Declaration. Every person who is a record owner of a fee or undivided fee interest in any Town Home does, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title to such Town Home, agree to all of the terms and provisions of this Declaration. Each of the Town Homes is subject to all the burdens, and enjoys all the benefits, made applicable hereunder.

Section 5. Easements Over the Town Homes. The Town Homes shall be subject to, and the Declarant does hereby grant to the appropriate grantees thereof, the following easements:

(a) Each Town Home shall be subject to all easements which are shown and depicted on the Plat as affecting and burdening such Town Home;

(b) Each Town Home shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go in and upon such Town Home under the circumstances, and for the purposes, described in Article XIV of this Declaration.

ARTICLE III.
ASSOCIATION PROPERTY

Section 1. Association Property. The Declarant shall have the right to transfer and convey to the Association any portion of the Property. All portions of the Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Association Property. Said right may be exercised by the Declarant any time, and from time to time, prior to June 1, 2010.

All portions of the Property which shall be transferred to the Association by the Declarant (a) shall be conveyed to the Association by limited warranty deed free of debt encumbrance, and (b) shall be conveyed to the Association subject to the rights and easements set forth in Sections 2 and 3 of this Article III, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements.

The Association does hereby covenant and agree to accept all conveyances of the Association Property which may be made to it pursuant to, and in accordance with, the terms and provisions of this Section 1.

Section 2. Members' Rights in Association Property. Every owner of any Town Home shall have a non-exclusive right and easement of enjoyment and use in and to all portions of the Association Property, except for Easement Areas, Porticos, Stoops and Patios (which shall be subject to an easement for the exclusive use of the owner of the Town Home to which the same are attached or annexed, as provided for elsewhere in this Declaration), and such right and easement shall be appurtenant to, and shall pass with, the title to the Town Home(s) owned by such owner. Such right and easement of enjoyment and use are and shall be subject to the easements which are described in Section 3 of this Article III, to all other provisions of this Declaration relating to the use of the Association Property, and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Association Property, and to the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the owner of any Town Home during any period in which any assessment which is due to the Association from such owner remains unpaid, and such period as the Board of Directors may consider appropriate for any infraction of its published rules and regulations.

Section 3. Easements Over Association Property. All Association Property shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) An easement across, in, under, over and through the Association Property for the purposes of the construction, installation, repair, maintenance and use of all utility and drainage lines, wires, pipes and similar facilities as may be reasonably necessary for the provision of utility services (including, water, sewer, gas, electric and telephone services) to the Town Homes;

(b) An easement in favor of Declarant for the exclusive use of such portions of the Association Property as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Town Home, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of Town Homes, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate at such time as the construction of the Town Home has been completed and all of the Town Homes shall have been conveyed to owners thereof who shall not have acquired the Town Homes for the purpose of immediate resale of the same. Such easements shall and do exist

without affecting the obligation of the owner of any Town Home to pay assessments or charges coming due during such period of time as portions of the Association Property shall be used by authorized persons pursuant to the exercise of the easements herein stated.

(c) The easements described in Sections 6 and 7 of this Article III;

(d) An easement for the continued maintenance, repair, replacement and use of the area on which the air-conditioning compressor serving any Town Home is located, such easement to be appurtenant to the Town Home served by such air-conditioning compressor.

Section 4. Damage or Destruction of Association Property. All damage that shall occur to any improvements located on any Association Property on account of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any such casualty as is reasonably practicable. All repairs to any improvements located on the Association Property shall be made in accordance with plans and specifications that shall be approved for the same by the Board of Directors of the Association.

Section 5. Transfer or Encumbrance. In no event shall the Association abandon, encumber, dedicate, sell or transfer, directly or indirectly, any portion of the Association Property unless such abandonment, encumbrance, dedication, sale or transfer shall be first approved in writing by: (a) the owners of no fewer than sixty-seven percent (67%) of the Town Homes; (b) the holders of no fewer than sixty-seven percent (67%) of the First Mortgages existing in regard to the Town Homes; and (c) HUD and VA (until such time as the Class B membership shall terminate as provided for in Article IV, Section 3 of this Declaration). In no event shall the Association abandon, encumber, dedicate, sell or transfer any portion of the Association Property consisting of a Stoop, Easement Area, or any portion of the Association Property.

Section 6. Easement Areas. There shall be appurtenant to each Town Home an easement for the exclusive use and enjoyment of the Easement Area that is depicted on the Plat recorded in connection with the subjecting of such Town Home to the terms of this Declaration as being appurtenant to such Town Home. Such easement shall include the rights to plant shrubbery, plants, trees, flowers, bushes, grass, ivy and other foliage in and on such Easement Area, and to erect a fence in accordance with the provisions of Article X, Section 3 of this Declaration.

Section 7. Porticos, Stoops and Patios. There shall be appurtenant to each Town Home an easement for the exclusive use of that part of the Association Property which consists of the Stoop that is annexed to such Town Home, and, for those Town Homes to which a Portico is attached, an easement for the exclusive use of that part of the Easement Area over which such Portico is located and for the repair, maintenance and replacement of the columns supporting such Portico.

Section 8. Maintenance of Association Property.

(a) Except for the maintenance of each Easement Area which is required to be performed by the owner of the Town Home to which such Easement Area is annexed (as provided for in Section 2 of Article X of this Declaration), and except for the maintenance and repair of the Porticos and Stoops which is required to be performed by the owner of the Town Home to which such Stoop and Portico are attached or annexed (as provided for in Section 1 of Article X of this Declaration), the Association shall be responsible for the maintenance and repair of all Association Property. Without limiting the generality of the foregoing, said maintenance and repair work shall include all driveways and roadways located on the Property.

(b) In no event shall any person construct, place, install, plant or mount any structure, plant, tree, shrub or other item on any part of the Association Property (including within any Easement Area), except only for (i) fences permitted under the provisions of Section 3 of Article X hereof, (ii) items placed or installed on the Patios in accordance with all other terms and restrictions set forth in this Declaration, (iii) plants, shrubbery, trees, flowers, bushes, grass, ivy or other foliage planted in an Easement Area pursuant to the exercise of the easement set forth in Section 6 of this Article III, and (iv) items placed with the prior, written permission of the Board of Directors.

Section 9. Temporary Structures. Subject to the right of the Declarant to promote the sale of Town Homes, no structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other building, shall be permitted on any part of the Association Property at any time, whether temporarily or permanently, except with the prior written consent of the Board of Directors.

ARTICLE IV.
THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the Clerk of the Superior Court of Fulton County, Georgia, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the ownership, management and operation of the Association Property, the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as the Board of Directors shall deem to be in the best interests of the members of the Association.

Section 2. Membership. Every person who is, or who becomes, a record owner of a fee or undivided fee interest in any Town Home is and shall be a member of the Association; provided, however, that any such person who holds such interest merely as security for the performance of an obligation shall not be a member of the Association. The transfer of ownership of a fee or undivided fee interest in any Town Home shall automatically transfer membership in the Association, and in no event shall such membership be severed from the ownership of such Town Home.

Section 3. Classes of Membership; Voting Rights. The Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. The Class A members shall be all those persons holding an interest required for membership in the Association, as specified in Sections 2 and 3 of this Article IV, except for those persons who are Class B members. Until such time as the Class A members shall be entitled to full voting privileges, as hereinafter specified, the Class A membership shall be entitled to vote only in regard to the following matters: (a) any proposal of merger, consolidation or dissolution of the Association; (b) any proposal to transfer or encumber any portion of the Association Property; (c) any proposal pursuant to Article XII of this Declaration to amend this Declaration; (d) any proposal to modify or amend The Articles of Incorporation or the Bylaws and (e) any other matter for which it is herein specifically provided, or for which it is provided by law, that approval of each and every class of membership of the Association is required. Except in regard to the foregoing matters, the Class A membership shall be a non-voting membership until such time as the Class B membership shall terminate, at which time the Class A membership shall be the sole class of membership and shall be entitled to full voting privileges.

When entitled to vote, Class A members shall be entitled to cast one (1) vote for each Town Home in which they hold an interest required for membership by Section 2 of this Article IV.

(b) Class B. The Declarant shall be the sole Class B member and shall be entitled to three (3) votes for each Town Home owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). Class B membership shall be a full voting membership and, during its existence, the Class B member shall be entitled to vote on all matters and in all events. The Class B membership shall terminate and cease to exist, and the Class B member shall be and become a Class A member insofar as it may then hold any interest required for membership by Section 2 of this Article IV, upon the earliest to occur of: (1) the date on which the Declarant shall have conveyed to individual owners thereof seventy-five percent (75%) of the Town Homes, (ii) seven (7) years after the date this Declaration is recorded or (iii) on such earlier date as the Declarant shall designate in a written notice delivered to the Association.

From and after the date at which the Class B membership automatically terminates and

ceases to exist, such membership shall not be renewed or reinstated.

Section 4. Board of Directors. A Board of Directors shall manage the affairs of the Association. The number of directors and the method of election of directors shall be as set forth in the By-Laws of the Association.

Section 5. Suspension of Membership Rights. The Board of Directors may suspend the voting rights of any member of the Association, including the right to vote and to use the Association Property (except for the right to use the Association Property for access to and from the Town Home owned by such member), who (a) shall be subject to the Right of Abatement, as defined in Article XIII, Section 2 by reason of having failed to take reasonable steps to remedy a violation or breach of either the restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Article VII Section 11 or (b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article V hereof; or (c) shall be in violation of any of the rules or regulations of the Association relating to the operation or maintenance of the Association Property. Such suspension shall be for the balance of the period in which said member or person shall remain in violation, breach or default, as foresaid except that in the case of a violation described in subsection (d) of this Section 4, the suspension may be for a period not to exceed sixty (60) days after the sure or termination of such violation. No suspension shall interfere with an Owner's ingress to or egress from his Town Home. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the member's property in favor of the Association.

Section 6. Termination of Membership: Membership shall cease only when a person ceases to be an Owner.

Section 7. Meetings of the Membership. All matters concerning the meetings of members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in this Declaration, or in the Articles of Incorporation or the Bylaws, or by law.

Section 8. Association Acts Through Its Board of Directors. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Board of Directors of the Association, unless it is specifically stated in this Declaration; the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the members of the Association must vote. No member of the Board of Directors of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B member) shall be personally liable to any owner of any Town Home for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 9. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of the Association, or any part thereof, and may enter into such agreements for the management of the Association Property as the Board of Directors deems to be in the best interests of the Association.

Section 10. Control by Declarant:

(a) Notwithstanding any other language or provisions to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the Association, Declarant hereby retains the right to appoint and remove all members of the Board of the Association, and all officers of the Association until the first of the following events shall occur: (i) the expiration of seven (7) years after the date of the recording of this Declaration; (ii) the date upon which seventy-five (75) percent of all of the Residences submitted or proposed to be submitted to this Declaration have been conveyed to Owners other than a person or persons constituting Declarant; or (iii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant.

Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Town Homes; and a special meeting of the Association shall be called at such time. At such special meeting, the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board, and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law and other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE V.
ASSESSMENTS

Section 1. Assessments; Lien Therefore. The Declarant, as the owner of all of the Town Homes, hereby covenants, and each person who shall own any Town Home, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, shall be deemed to covenant and agree to pay to the Association any and all assessments as stated in Article V, which are levied by the Association against the Town Home(s) owned by such person in accordance with the terms and provisions of this Declaration.

All sums lawfully assessed by the Association against any Town Home and the owner thereof, shall, from the time the sums became due and payable, be the personal obligation of the owner of such Town Home and constitute a lien in favor of the Association on such Town Home prior and superior to all other liens whatsoever, except:

- (a) liens for ad valorem taxes on the Town Home;
- (b) the lien of any First Mortgage or the lien of any other Mortgage recorded in the Deed Records of Fulton County, Georgia prior to the recording of this Declaration; or
- (c) the lien of any secondary purchase money Mortgage covering the Town Home, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Town Home.

Section 2. Personal Obligation of Members. Each member of the Association, by acceptance of a deed or other conveyance to the Town Home(s) owned by such member, irrespective of whether it shall be so expressed in any such deed or other conveyance, and by acceptance of ownership of such Town Home(s), and by taking record title to such Town Home(s), shall be deemed to covenant and agree to pay to the Association:

- (a) His share of the Assessments which shall be levied by the Association in accordance with Section 2 hereof; and
- (b) When properly authorized in accordance with Section 6 hereof, special and specific assessments to be fixed, established and collected from time to time as hereinafter provided.

All such assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be the personal obligation of the person who is the owner of the Town Home against which such assessments are levied at the time such assessments become due and payable. The covenant to pay assessments herein stated is and shall be a covenant running with the land.

Section 3. Capital Contribution. In addition to the monthly assessment provided in Section 1 above, at the closing of the initial sale of each Town Home to a party other than the builder thereof, the purchaser thereof shall pay to the Association \$ 400.00 as an initial working capital contribution with respect to each Town Home, which is not refundable in the event of a sale or transfer of the Town Home.

Section 4. Purposes of Assessments. The assessments levied on an monthly basis by the Association pursuant to Section 5 of this Article VI shall be used to pay the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant to this Declaration, the Articles of Incorporation and the Bylaws (such

(a) In the event that any member of the Association shall fail to pay, within ten (10) days after the date the same is due and payable, any monthly or special assessment, or any installment of any monthly or special assessment, which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared by the Board of Directors to be immediately due and payable in full to the Association. All such amounts so declared by the Board of Directors to be due and payable in full to the Association shall be secured by the lien of the Association on every Town Home owned by the delinquent member, which lien shall bind such Town Home or Town Homes in the hands of the then owner, and his heirs, devisees, successors and assigns. All amounts which the Board of Directors shall declare to be due; and

(b) payable pursuant to this Section 8 shall bear interest from the date of delinquency at the lower of the rate of ten (10%) percent per annum or the highest rate permitted by law, and the Association may bring legal action against the member of the Association personally obligated to pay the same, or foreclose its lien upon the Town Home or Town Homes of such member, in either of which events such member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

Section 9. Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purpose.

Section 10. Uniform Rate. The monthly and special assessments must be fixed at a uniform rate for all Town Homes.

Section 11. Contribution by Declarant. For so long as Declarant has the authority to appoint and remove directors and officers of the Association, Declarant shall not be liable for the payment of any monthly or special assessments. Provided, however, during said period Declarant may advance funds to the Association, sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association, and the sum of monthly, special, and specific assessments collected by the Association in any Assessment Year, and such advances may be deemed to be loans to the Association and may be evidenced by promissory notes from the Association to Declarant, which shall be due and payable upon demand, with interest at a rate of twelve (12) percent per annum after demand.

Section 12. Certification of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Town Home owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid, setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the town Home in question.

Section 13. Approval by Declarant. Notwithstanding anything to the contrary contained herein, no special assessment shall be made without the approval of Declarant for so long as Declarant has the right to appoint and remove officers and directors of the Association.

Section 14. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. 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 exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The board may

specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association, as provided herein:

- (a) Expenses of the Association which benefit less than all of the Town Homes, which may be specifically assessed equitably all of the Town Homes which are benefited according to the benefit received;
- (b) Expenses incurred by the Association pursuant to Article X hereof; and
- (c) Reasonable fines as may be imposed in accordance with the terms of this Declaration and By-Laws.

ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee Creation and Composition:

(a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than three (3) or more than five (5) individuals, provided, however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, but not the obligation, to appoint all members of the ACC until the Board has the right to appoint members of the ACC. All costs of operating the ACC, may, at the discretion of Declarant, be borne by the Association.

(b) Each initial member of the ACC shall be appointed for a term expiring on December 31, 2003. Thereafter, each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall, subject to the provisions of Section 1(a), be filled by the Declarant (or the Board if at the time the Board has the right to appoint members of the ACC) at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant while the Declarant has power to appoint members of the ACC pursuant to the provisions of Section 1(a) hereof (or by the Board if at the time the Board has the right to appoint members of the ACC).

Section 2. Purpose, Powers, and Duties of the ACC: The purpose of the ACC is to assure that any alteration of any Town Home, including, but not limited to the construction of a fence pursuant to Article X, Section 3, shall be submitted to the ACC for approval as to whether the proposed alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Development. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any alteration of any Town Home.

Section 3. Officers, Subcommittees, and Compensation: The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other reasonable out-of-pocket costs incurred in the performance of their duties as members of the ACC.

Section 4. Operations of the ACC:

(a) Meetings: The ACC shall hold regular meetings at least once every six (6) months or more often as may be established by the ACC. Special meetings may be called by the Chairman at any time, and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at

the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Members of the Association and by the Secretary of the Association. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities:

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5 hereof and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or to appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

Section 5. Design Standards:

(a) The ACC shall from time to time adopt, promulgate, amend, revoke, and enforce guidelines (the "Design Standards") for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;

(ii) governing the procedures for such submission of plans and specifications;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, and all other matters that require approval by the ACC pursuant to this Declaration;

(iv) assuring the conformity and harmony of external design and general quality of the Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to Owners and prospective Owners and to all applicants seeking the ACC's approval.

Section 6. Submission of Plans and Specifications. No alteration to a Town Home is permitted which materially changes the exterior appearance of the Town Home, unless plans and specifications therefore shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards. Submissions shall include, without being limited to:

- (a) specifications of materials, color scheme, and other details affecting the exterior appearance of the Town Homes.
- (b) a landscape plan indicating all proposed changes to the existing landscape, including changes in grade, changes to existing landscaping, proposed landscaping, site lighting, and drainage.
- (c) specifications of materials and the proposed location of a fence.

Section 7. Approval of Plans and Specifications: Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, one (1) copy of such plans and specifications, as approved; shall be deposited for permanent record with the ACC, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Town Home of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Town Home. Approval of any such plans and specifications relating to any Town Home, however, shall be final as to that Town Home, and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and all conditions attached to any such approval.

Section 8. Disapproval of Plans and Specifications: The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

- (a) the failure to include information in such plans and specifications as may have been reasonably requested;
- (b) the failure of such plans or specifications to comply with this Declaration or the Design Standards; or
- (c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards for the Development as set forth in the Design Standards or the Development-Wide Standard, or (ii) as to location to be incompatible with topography, finished ground elevation, or surrounding Structures. In any case in which the ACC shall disapprove any plans or specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

Section 9. Obligation to Act: The ACC shall take action on any plans and specifications submitted as herein provided within fourteen (14) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the ACC to take action within fourteen (14) days after receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

Section 10. Inspection Rights: Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times, enter upon any Town Home thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of the Town Home or the use of any Town Home is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

Section 11. Violations: If any alteration is made to an existing Town Home, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association, and the Board shall take appropriate measures to correct the violation; the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Article XIII hereof.

Section 12. Certification of Compliance:

Upon completion of the alteration to the Town Home in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such alteration, and stating that the plans and specifications have been approved and that such alteration complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or lender in good faith and for value or title insurer, such Certificate shall be conclusive evidence that all alterations on the Town Home comply with all of the requirements of this Article; provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction or workmanship of the alteration, or to represent or warrant to anyone the quality, function or operation of the alteration or of any construction, workmanship, engineering, materials or equipment.

The issuance of the Certificate shall in no way be construed to certify to any party that the alterations have been completed in accordance with any applicable rule or regulation or in accordance with every detail on the approved plans and specifications.

Section 13. Fees: The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and specifications and of inspections performed pursuant to Section 10. The fee shall be established from time to time by the ACC and published in the Design Standard.

Section 14. Non-Discrimination by ACC: The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.

Section 15. Disclaimer as to ACC Approval: Plans and specifications are not reviewed for engineering, structural design, structural integrity, quality of materials, or compliance with any local, state, or federal laws, including local building codes and zoning ordinances, and by approving such plans and specifications neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any Town Home alteration constructed from such plans and specifications. Neither Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions, by reason of mistake in judgment, negligence, or non-feasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans and specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them, to recover any such damages and hereby releases, remises, quitclaims, and covenants not to sue all such persons and entities for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or non-feasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

ARTICLE VII MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Town Homes in the Development. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder insurer, or guarantor of a first Mortgage, who provides written request to the Association, such request to state the name and address of such holder, insurer, or guarantor and the Town Home number (therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Town Home on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Town Home subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the

performance by an Owner of a Town Home of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of a specified percentage of Mortgage Holders;

(e) an annual financial statement, or audit if available, of the Association for the immediately preceding fiscal year, free of charge;

(f) any proposed amendment of the Declaration effecting a change in (A) the boundaries of any Town Home or the exclusive easement rights appertaining thereto; (B) the interests in the Association Property or the liability for common expenses appertaining thereto; (C) the number of votes in the Association appertaining to any Town Home; or (D) the purposes to which any Town Home or Association Property are restricted; or

(g) any proposed termination of administration of the Association Property pursuant to this Declaration;

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Town Home in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Association Property.

Section 3. Notice to Association. Upon request, each Town Home owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Town Home.

Section 4. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development ("HUD.") or the Veterans Administration ("VA") subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 5. VA/HUD Approval. As long as there is a Class B Membership and so long as the project is approved by HUD for insuring any Mortgage in the Development (as determined by consulting the current list of approved subdivisions regularly published by HUD and furnished to Mortgage companies) or the VA for guaranteeing any Mortgage in the Development (as determined by telephone inquiry to VA), the following actions shall require the prior approval of the VA and/or HUD as applicable: annexation of additional property to the Development except for annexation by Declarant in accordance with Article II pursuant to a plan of annexation previously approved by VA or HUD; dedication of Association Property to any public entity; mergers and consolidations; dissolution of the Association; mortgaging of Association Property; and material amendment of the Declaration, Bylaws, or Articles of Incorporation.

Section 6 Association Property. To the extent permissible under the law of the state of Georgia, the following provisions shall apply:

(a) Any restoration or repair of the Association Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the Eligible Holders of first mortgages on Town Homes to which at least fifty-one (51%) percent of the votes of Town Homes subject to mortgages held by such Eligible Holders are allocated, is obtained.

(b) Any Election to terminate the administration of the Association Property pursuant to this Declaration after substantial destruction or a substantial taking in condemnation of the Property must require the approval of the Eligible Holders of first mortgages on Town Homes to which at least fifty-one (51%) percent of the votes of Town Homes subject to mortgages held by Eligible Holders are allocated.

Section 7. Amendments. The following provisions do not apply to amendments to the constituent documents or termination of the Association pursuant to Section 6 hereof made as a result of destruction, damage, or condemnation, or to the addition of land pursuant to any plan of expansion or phased development previously approved by HUD or the VA to the extent such approval is required by HUD or VA:

(a) The consent of Owners representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it holds any land subject to this Declaration, and the approval of the Eligible Holders of first mortgages on Town Homes to which at least sixty-seven percent (67%) of the votes of Town Homes subject to a mortgage appertain, shall be required to terminate the administration of the Property subject to this Declaration.

(b) The consent of Owners representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it holds any land subject to this Declaration, and the approval of Eligible Holders of first mortgages on Town Homes to which at least fifty-one percent (51%) of the votes of Town Homes subject to a mortgage appertain, shall be required to materially amend any provisions of this Declaration, the By-laws or the Articles of Incorporation to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

- i) Voting;
- ii) Assessments, assessment liens or subordination of such liens;
- iii) Reserves for maintenance, repair and replacement of the Association Property;
- iv) Insurance or fidelity bonds;
- v) Rights to use of the Association Property;
- vi) Responsibility for maintenance and repair of the several portions of the Property;
- vii) Expansion or contraction of the Property or the addition, annexation or withdrawal of land to or from the property;
- viii) Boundaries of any Easement Areas;
- ix) Leasing of Town Homes;
- x) Imposition of any right of first refusal or similar restriction on the right of a Town Home
- xi) Establishment of self-management by the Association where professional management, if any, has been employed; and
- xii) The approval of Eligible Holders of first mortgages on Town Homes to which at least fifty-one percent (51%) of the votes of Town Homes subject to a mortgage appertain, shall be required to amend any provisions included in this Declaration, the By-Laws or the Articles of Incorporation which are for the express benefit of holders or insurers of first mortgages on Town Home.

(c) The provisions of this Article shall not be construed to reduce the percentage vote that must be obtained from mortgagees of Town Home Owners where a larger percentage vote is otherwise required by applicable law or in any other provision in the Declaration, the By-Laws or the Articles of Incorporation for any of the actions contained in this Article.

Section 8. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation (The Mortgage Corporation), the following provisions apply in addition to and not in lieu of the foregoing. Unless two-thirds (2/3) of the first Mortgagees or Owners other than the Declarant, give their consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Association Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Association Property shall not be deemed a transfer within the meaning of this subsection) other than personal property of the Association;

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Town Homes and of the Association Property (the issuance and amendment of architectural standards, procedures, rules, and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use of hazard insurance proceeds for any Association Property losses for other than the repair, replacement, or reconstruction of such property.

(f) Nothing contained in this Section 8 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 8.

(g) First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Association Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse

of any Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 9. Applicability of Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 10. Failure of Mortgagee to Respond. Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE VIII
DAMAGE OR DESTRUCTION OF TOWN HOMES

In the event of the occurrence of any damage or destruction by fire or other casualty to any one or more Town Homes, such damage or destruction shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any Town Home shall be substantially in accordance with the plans and specifications for such damaged or destroyed Town Home prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the owner of the Town Home which is to be so repaired, reconstructed or rebuilt, and by the Board of Directors. The work of repairing, reconstructing or rebuilding any damaged or destroyed Town Home shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The owner of any Town Home which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this Article VIII shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this Article VIII.

ARTICLE IX
USE RESTRICTIONS AND RULES

Section 1. General. In order to provide for the maximum enjoyment of the Town Homes by all of the residents thereof and to provide protection for the value of the same, the use of the Town Homes shall be restricted to, and shall be only in accordance with, the following provisions. These restrictions must be complied with by all Owners and Occupants. These use restrictions may be amended only in the manner provided in Article XII, hereof regarding amendment of this Declaration. The Board of Directors may, from time to time, without the consent of the members, promulgate, modify, or delete use restrictions and rules and regulations applicable to the Town Homes and Association Property. Such regulations and use restrictions shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless overruled, cancelled, or modified in a regular or special meeting of the total Association vote.

Section 2. Single-Family Use. All of the Town Homes shall be restricted exclusively to single-family residential use. The term "single-family" shall include one or more related or unrelated adults, as well as the children of any such adults. No Town Home shall at any time be used for any commercial, business or professional purpose. Notwithstanding the foregoing, however, nothing set forth in this Section 1 shall prohibit: (a) the Declarant from conducting such sales, leasing and promotional activities on any Town Home as the Declarant shall determine (including, but not limited to, using any Town Home as a model home and a sales office); or (b) the owner of any Town Home from using such Town Home as an office, provided that such use does not create regular customer or client traffic to and from such Town Home and no sign, logo, symbol or nameplate identifying such business is displayed anywhere on such Town Home. No use of any Town Homes shall violate any city or county zoning regulations or ordinances.

Section 3. Prohibited Activities. No noxious or offensive activity shall be conducted in any Town Home. Each owner of any Town Home, his family, tenants, guests and invitees, shall refrain from any act or use of his Town Home which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of any other Town Home.

Section 4. Nuisances. No nuisance shall be permitted upon or within any Town Home. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other

sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Town Home.

Section 5. Animals. No Town Home shall be used for the keeping or breeding of livestock, animals or poultry of any kind, except that a reasonable number of household pets may be kept, provided that they are neither kept for breeding nor maintained for any commercial purpose, and provided that none of such pets are permitted to be a source of annoyance to any other resident or residents of any other Town Home. No known vicious animal shall be kept in any Town Home. All pets shall, at all times whenever they are outside of a Town Home, be confined on a leash. Owners shall be immediately responsible for the proper clean up and disposal of all waste created by their animals.

Section 6. Signs. No sign of any kind or character shall be erected or displayed to the public on any portion of any Town Home without the prior written consent of the Board of Directors, except for customary name and address signs and one "for sale" sign advertising a Town Home for sale. The restriction herein stated shall include the prohibition of placement of any sign within any Town Home in a location from which the same shall be visible from the outside.

Section 7. Window Air-Conditioners. No air-conditioner shall be installed in any window of any Town Home, nor shall any air-conditioner be installed on any Town Home so that the same protrudes through any exterior wall of such Town Home.

Section 8. Subdivision of Town Homes. No Town Home may be further subdivided into any smaller Town Home.

Section 9. Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Development.

Section 10. Clotheslines, Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Town Homes, streets and property located adjacent to the Town Home. All rubbish, trash and garbage shall regularly be removed from the Portico, Town Home, Patio and Easement Area and shall not be allowed to accumulate thereon. Declarant, however, expressly reserves the right to dump and bury rocks on the property within the Development as needed for efficient construction and to allow developers and builders within the Development to do so. No organic material shall be buried anywhere in the Development. No clothesline shall be permitted on any Portico, Town Home, Patio or Easement Area.

Section 11. Guns. The use of firearms in the Development is prohibited. The term "firearms" includes "B-B guns, pellet guns, and firearms of all types.

Section 12. Solar Devices. No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Town Home, including the Portico, Patio, or Easement Area, without the prior written consent of the Architectural Committee.

Section 13. Pools. Pools, of any sort whatsoever, other than a pool, if any, built as a part of the amenities package for the entire Development, shall not be permitted on the Development.

Section 14. Satellite Dishes. No satellite dishes or antennas are permitted except satellite dishes less than twenty-one (21") inches in diameter and shall be located only on that portion of the Town Home which is least visible from public view and shielded so as to minimize any risks and to ensure a nuisance is not created.

Section 15. Obstruction of Ingress and Egress. No owner, tenant, or guest shall obstruct the rights of ingress and egress to any residence.

Section 16. Enforcement by Members. In the event that the owner of any Town Home, or

any person who is entitled to occupy any Town Home, shall fail to comply with or abide by any restriction set forth in either this Article IX, or in Article VI, Section 1 of this Declaration, then the owner of any other Town Home who is aggrieved by such failure of compliance or abidance shall have the right to proceed at law or in equity to compel such owner or such occupant to comply therewith and abide thereby. Additionally, any owner of any Town Home who, or whose lessee, shall fail to comply with or abide by any such restriction shall be liable for any damages as may be suffered by any other owner of any Town Home as a consequence of such failure.

Section 17. Recreational Vehicles, Commercial Vehicles, Boats, Trailers, Boat Trailers, Utility Trailers. No trailer, recreational vehicle, commercial vehicle, boat, boat trailer, trailer house, or utility trailer shall be parked at any Town Home.

Section 18. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide sanctions against Owners shall also apply to all Occupants of any Town Home even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine shall then be levied against the Owner.

Section 19. Lighting. Notwithstanding Article VI, above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Architectural Committee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yard of the Town Home; providing does not create a nuisance for the adjoining Town Homes; (c) illumination of model Town Homes and entrance features constructed by the Declarant. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI.

Section 20. Drainage. Catch basin and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Town Home may obstruct or re-channel the drainage flows after the location and installation of drainage swales, storm sewers, or storm drains. Declarant reserves the right to prepare sloping banks, cuts, or fills on all streets and roads. Declarant hereby reserves a perpetual easement across all Association Property and Easement Areas for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 21. Detached Structures. No detached structures shall be placed, erected, allowed or maintained upon any Association Property or Easement Area without the prior written consent of the ACC.

Section 22. Entry Features and Street Signs. Owners shall not alter, remove or add improvements to any entry features or street signs constructed by the Declarant on any Lot or Town Home, or any part of an easement area associated therewith without the prior written consent of the ACC.

Section 23. Basketball Hoops and Goals. Basketball hoops and goals shall not be attached to the exterior portion of any Town Home, garage or other building structure constructed on a Lot or Town Home.

ARTICLE X.
MAINTENANCE OF TOWN HOMES AND EASEMENT AREAS

Section 1. Maintenance and Repair of Town Homes, Porticos, Stoops and Patios. The owner of each Town Home shall be obligated to maintain and repair the entirety of his Town Home, including all walls and the roof of such Town Home. The owner of each Town Home shall also be obligated to maintain and repair the Stoop and any Portico which is attached to his Town Home, and the Patio which is annexed to his Town Home, including all brick, stucco and concrete portions of the same. Such maintenance and repair work shall be performed at the sole cost and expense of the owner of such Town Home. All exteriors of all Town Homes and all Stoops and Porticos shall be maintained in a condition which is satisfactory to the Board of

Directors. In no event shall any change be made in the exterior appearance of any Town Home (including, without limitation, painting and the application of any brick, stucco, paneling or other siding), unless such change has been first approved in writing by the ACC. The Board of Directors shall have the right to adopt rules for the placement of any items on the Porticos, Stoops and Patios and all items placed on the Stoops and Patios must comply with the terms of such rules.

Section 2. Maintenance of Easement Areas.

(a) Except as provided otherwise in paragraph (b) hereof, the Association shall be responsible for maintaining the grass and the grounds of the portion of each Easement Area which is not located inside a fence. Such maintenance shall consist of normal grass mowing and any other activity necessary to keep such grounds in a condition that is satisfactory to the Board of Directors.

(b) The owner of the Town Home to which each Easement Area is annexed shall be obligated to maintain any trees, flowers, shrubbery or bushes as shall have been placed in the Easement Area pursuant to the exercise of the easement rights set forth in Section 6 of Article III of this Declaration in a condition which is satisfactory to the Board or Directors. Such maintenance shall include, without limitation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes, ivy and other foliage.

(c) The owner of the Town Home to which each Easement Area is annexed shall be obligated to keep and maintain any portion of the Easement Area which is enclosed within a fence erected in accordance with Section 3 of this Article X in a neat, sanitary and attractive condition which is satisfactory to the Board of Directors. Such maintenance shall include, without limitation, cutting the grass, weeds and other vegetation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes; grass, ivy and other foliage as may be planted in and on the Easement Area pursuant to the exercise of the easement rights set forth in Section 7 of Article III of this Declaration.

Section 3. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Development without the prior written consent of the ACC, pursuant to Article VI. If approved by the ACC, fences shall only be built on the portion of the Easement Area immediately annexed to the Town Home as shown on the final plat of survey. No such fence may be erected outside the Easement Area that is annexed to such Town Home. The ACC shall have the right to determine the exact location of all fences to insure uniform placement. It shall be the duty of the ACC to maintain in effect a standardized design for the fence that may be so erected upon the Association Property. In no event shall any fence be erected pursuant to the provisions of this Section 3 unless the design of such fence shall conform to the standardized design which shall be so approved by the ACC prior to construction pursuant to Article VI of this Declaration.

Any such fence that shall be so erected shall contain a gate providing access into said Easement Area and shall not contain any lock or locking device. In no event shall the owner of any Town Home lock or otherwise secure said gate in such a way that it cannot be opened to permit access into said Easement Area.

In the event that the owner of any Town Home shall elect to erect any such fence pursuant to the provisions of this Section 3, the owner of the Town Home to which such fence is annexed shall be responsible for the repair, maintenance and replacement of such fence and the area enclosed thereby.

Section 4. Failure of Maintenance. In the event that the owner of any Town Home shall fail to maintain any portion of such Town Home, or the Stoop or any Portico that is attached to such Town Home, or the Patio that is annexed to the same, or any Easement Area that is annexed to the same (including any fence that may have been erected in such Easement Area), all as required under the terms and provisions of this Article X, the Board of Directors shall have the right, exercisable by it or through its agents or employees, and after giving the owner of such Town Home at least five (5) days notice and an opportunity to correct the unsatisfactory

condition, to enter upon the Town Home, Portico, Stoop, Patio and/or Easement Area, as applicable, and correct the unsatisfactory condition. The owner of the Town Home upon which, or upon the Portico, Stoop, Patio or Easement Area attached or annexed to which, such maintenance work is performed by the Association (or its agents or employees) shall be personally liable to the Association for all direct and indirect costs as may be incurred by the Association in connection with the performance of such maintenance work, and the liability for such costs shall be secured by all of the liens, and shall be subject to the same means of collection, as are the assessments and charges provided for in Article V of this Declaration. In addition, all such costs shall be paid to the Association by such owner at the same time as the next due annual assessment payment, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Board of Directors shall determine.

ARTICLE XI. INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to obtain insurance for all insurable improvements located on the Association Property or property required to be maintained by the Association under Article III, Section 8 hereof, including coverage for (i) loss or damage by fire or other hazards, including extended coverage, 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, and (ii) comprehensive general liability insurance covering all of the Association Property. The Board shall also have the authority to obtain director's and officer's liability insurance, said insurance to cover the members and officers of the Board of Directors; and the members of the Architectural Committee as duly appointed under the provisions of Article VI, insuring the same against any negligence or nonfeasance. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of Association, as trustee, for the respective benefited parties. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company authorized to do business in Georgia.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors 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.
- (d) 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 Development is located.

Section 2. Damage and Destruction - Town Homes. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Portico, Town Home, Patio or Easement Area shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XIII of this Declaration.

Section 3. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

Section 4. Additional Insurance. In addition to coverage described hereinabove, the Association shall obtain such additional amounts and types of insurance as may be required from time to time by either the Veterans Administration or the Federal Housing Administration, their successors and assigns, for similar type residential subdivision communities.

The Association shall have the authority to obtain and maintain a blanket fidelity bond for all officers, directors, and employees of the Association and all other persons who handle, or are responsible for, funds of or administered by the Association. If the Association engages a management agent who has responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or administering the funds of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the management agent at any time during the period of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Town Homes plus reserve funds. The bonds shall contain waivers by the issuer of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior notice to the Association.

Section 5. Town Homes. The owner of each Town Home shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of such Town Home, and the Stoop, Patio and any Portico which is annexed to such Town Home, on a replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value, based upon replacement cost, of the same.

ARTICLE XII
AMENDMENT

Section 1. Amendment by Association. The terms, provisions, covenants and restrictions of this Declaration may be amended upon the approval of such amendment by: (a) those members of the Association who own, in the aggregate, no-fewer than sixty-seven percent (67%) of the Town Homes not owned by the Declarant; (b) the Declarant, if the Declarant shall then own any Town Homes or any other portion of the Property; and (c) HUD and VA, if the Class B membership has not terminated, as provided in Article IV, Section 3 of this Declaration. The approval of any such amendment by each of the Class A members shall be given by such Class A member either casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such Class A member signing a written approval of such amendment after the date on which such meeting was held, notwithstanding anything set forth to the contrary in the Articles of Incorporation or Bylaws. If any such amendment is required to be approved by the Declarant and/or by HUD and VA, such approval shall be given only by such Person executing a written approval of the same.

Any amendment to the terms, provisions, covenants or restrictions of this Declaration shall become effective only upon the recording in the Deed Records of Fulton County, Georgia, of an instrument certified by the incumbent Secretary of the Association: (a) setting forth such amendment; (b) stating that the approval of the Class A members of the Association which, under the provisions of this Article XII, is required for such amendment to be effective, has been given and obtained; and (c) containing the written approval of the Declarant and/or HUD and VA, if the same is required (as hereinafter provided).

The matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate.

Each person who shall own any Town Home, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, and each holder of a Mortgage upon any portion of any Town Home, by acceptance of such Mortgage, thereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided in this Article XII.

Section 2. Amendments by Declarant: During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing, filed and recorded in the Deed records of the Superior Court of Fulton County, Georgia, without the approval of any Member or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Town Home or of the Association Property as set forth in this Declaration or if such amendment adversely affects the title to any Town Home, such

amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Members affected thereby, or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this Section 2 shall be certified by Declarant as having been duly approved by Declarant, and such members and mortgagees, if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Town Home, agrees to be bound by such amendments as are permitted by this Article XII, Section 2 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (i) if such amendment is necessary to bring any provision hereof or thereof into compliance with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Town Homes subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Town Home subject to this Declaration, (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Town Homes subject to this Declaration, or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

ARTICLE XIII
ENFORCEMENT

Section 1. Right of Enforcement: This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association, and (iii) each Owner, his heirs, devisees, legal representatives, successors and assigns.

Section 2. Right of Abatement:

(a) Except where different notice provisions are provided in Articles IV and VI, in the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the Association shall have the Right of Abatement.

(b) The Right of Abatement, as used in this Section and in Articles IV and VI hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Town Home or Structure as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the costs thereof including the costs of collection including reasonable attorney's fees, together with interest thereon at the lower of the highest rate permitted by law or twelve (12%) percent per annum to be a binding personal obligation of such Owner enforceable at law, as well as a lien on such Owner's Town Home enforceable pursuant to the provisions of Section 4 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Town Home after such entry, whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Article IV hereof, and (iii) any Prior Recorded First Mortgage on a Town Home or Town Homes. Such lien shall not be affected by any sale or transfer of a Town Home, except that a sale or transfer of a Town Home pursuant to a foreclosure of a Prior Recorded First Mortgage shall extinguish such lien.

Section 3. Specific Performance: Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association, or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform, any of the obligations provided by this Declaration; and, therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

Section 4. Collection of Assessments and Enforcement of Lien:

- (a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Town Home or Town Homes subject to the lien or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorney's fees.
- (b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, costs or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Town Home or Town Homes subject to the lien at auction, at the usual place for conducting sales at the Courthouse in Fulton County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four (4) weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for Fulton County, Georgia, are published, all other notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of default upon which the executor of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and its assigns, the agent and attorney-in-fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or its assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, legal representatives, devisees, successors, and assigns of such Owner, and that the conveyance to be made by the Association or its assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Town Home or Town Homes, and the Association or its assigns shall collect the proceeds of such sale, and after reserving there from the entire amount of assessment, interest, cost, and other charge due, together with all costs and expenses of sale and fifteen (15%) percent of the aggregate amount due for attorney's fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law and any mortgagee of said Town Home or Town Homes. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.
- (c) No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Town Home. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law or ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

Section 5. Arbitration. Any controversy or claim arising out of the enforcement of the provisions of this Declaration shall be settled as expeditiously as possible by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and the judgment upon the award rendered by the arbitrator may be entered into any court having jurisdiction thereof. This provision in no way limits the lien rights and rights of abatement stated above.

ARTICLE XIV
EASEMENTS

Section 1. Easements for Utilities. There is hereby reserved to the Declarant its successors and assigns, for so long as the Declarant owns any Lot or Town Home, and to the Association, blanket easements upon, across, above and under all Association Property, Easement Areas and Town Homes for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the Association Property, Easement Areas or Town Homes or any portion thereof, including, but not limited to gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant or the Association might decide to have installed to serve the town Homes; and for slope control purposes, replanting, and maintenance of all entry features and retention ponds. It shall be expressly permissible for the Declarant, the Association or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment related to the

provide of such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 2. Easement for Association Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of the Association Property, Easement Areas and Town Homes determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article X. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the Owner's Town Home, reasonable steps shall be taken to protect such Town Homes, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 3. Easement for Entry. In addition to the right of the board to exercise self-help as provided in Article XIII, hereof, the board shall have the right, but shall not be obligated, to enter upon any Easement Area or Town Home for emergency, security and safety reasons, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner and the entering party shall include the right of the Board to enter to cure any condition which may increase the possibility of fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 4. Easements for Entry Features and Street Signs. There is hereby reserved to the Declarant and the Association an easement over and upon each Town Home, Easement Area and Association Property for ingress, egress, installation, construction, landscaping and maintenance of entry features and street signs for the Development. The easement right and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to upgrade the land under and around the entry features.

ARTICLE XV.
MISCELLANEOUS

Section 1. Failure of Enforcement. In the event that the Association shall fail to enforce the compliance with any of the provisions of this Declaration by the owner of any Town Homes, then the owner of any other Town Homes shall have the right to file an action in the Superior Court of Fulton County, Georgia for an order from such Court requiring that the Association enforce such compliance; provided, however, in no event shall the Board of Directors, or any officer of the Association, or any of their agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. Waivers. In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions or agreements set forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

Section 3. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 4. Notices. Any notice required to be sent to any member of the Association pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the member to whom it is intended, at the address which such member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the

Association, at the address of any Town Homes owned by such member. The date of service shall be the date of mailing.

Section 5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 6. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons or other entities violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Town Homes, to enforce any liens created by this Declaration.

Section 7. Successors to Declarant. In no event shall any person or other entity succeeding to the interest of the Declarant by operation of law or through purchase of the Declarant's interest in all or any portion of the Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant.

Section 8. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the by-laws, Articles of Incorporation, use restrictions, rules and regulations, Design Standards, and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration as provided herein terminates, it shall be expressly permissible for Declarant to maintain and carry on, upon such portion of the Development as Declarant may deem necessary, such facilities and activities as may reasonably be required by the Declarant and such builder in the development, for construction and sales activities related to the property subject to this Declaration, including, but not without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the development; the right to tie into any portion of the Development, with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, cable television, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Development; the right to maintain sales signs and project signs on individual Lots or Town Homes, within the right-of-way of any road, and at the entrance(s) of the Development; and the right to construct and operate business offices, signs, construction trailers, material storage areas, model Town Homes, off-street parking areas, and sales offices. Declarant may use Town Homes or offices owned or leased by Declarant as model Town Homes and sales offices. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the person causing any damage at its sole expense.

Section 9. Duration. This Declaration and Restrictions contained herein shall run with and bind the land for a period of twenty (20) years from and after the date when this Declaration is filed for record with the Clerk of the Superior Court of Fulton County, Georgia, after which time this Declaration and restrictions shall be automatically renewed for successive periods of ten (10) years; provided, however, that after the end of the said twenty (20) year period and during any ten (10) year renewal period (but only during such renewal period), this Declaration and the restrictions contained herein may be terminated by an instrument executed by the proper Association officers and recorded in the Office of the Clerk of the Superior Court of Fulton County, Georgia, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approving such termination which is approved by a two-thirds (2/3) vote of the Class A Members of the Association.

ARTICLE XVI
GENERAL PROVISIONS

Section 1. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 2. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article to which they refer.

Section 3. Preparation. This Declaration was prepared by Ganek, Wright & Dobkin, P.C., 1979, Lakeside Parkway, Suite 950, Tucker, Georgia 30084.

Section 4. Conveyance of Common Property by Declarant to Association; Assignment of Contracts. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved property, leasehold, easement, or other property interest. Such conveyance shall be accepted by the Association, and the property shall thereafter be Association Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. The Association shall also accept assignment of any contracts entered into by the Declarant for the benefit of the Association or the Owners.

Section 5. Indemnification. In accordance with the Georgia Nonprofit Corporation Code and to the full extent allowed, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of Association), by reason of the fact that such Person is or was serving as a member or officer of the Board of Directors or Architectural Committee of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

Section 6. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to: (i) Notice to be given to the custodian of the records; (ii) Hours and days of the week when such an inspection may be made; (iii) Payment of the cost of reproducing copies of the documents.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 7. Financial Statements. Financial Statements for the Association shall be compiled annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all costs associated therewith, such holder shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

Section 8. Notice of Sale or Lease. In the event the Owner sells or leases his or her Town Home, the Owner shall give to the Association, in writing, the name of the Purchaser or lessee of the Town Home and such other information as the Board may reasonably require.

Section 9. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development. All such agreements and determinations shall be subject to the prior approval of Declarant, so long as the Declarant owns any property primarily for development and/or sale in the Development.

Section 10. Variations. Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a

particular case would not be inconsistent with the overall scheme of development for the Development.

Section 11. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation the foreclosure of liens, (b) the imposition and collection of assessments as provided in Article V hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 12. Implied Rights. The Association may exercise any rights or privilege given to it expressly by this Declaration, the Bylaws, 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.

Signatures on page 34

IN WITNESS WHEREOF, Beazer Homes Corp. has caused this Declaration to be executed by its duly authorized officer on the day and year first above written.

Michelle Glyn
WITNESS

[Signature] (SEAL)
BEAZER HOMES CORP.
By: GRANT GRIMES
Its: VP - LAND DEVELOPMENT

[Signature]
NOTARY PUBLIC

(Notary Seal)

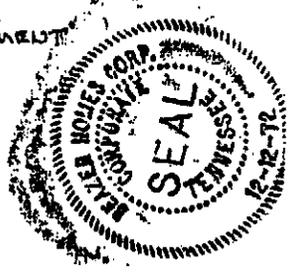


EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 757 and 828 of the 2nd District, 2nd Section of Fulton County, Georgia, being more particularly described as follows:

BEGINNING at an iron pin found at the point of intersection of the southeasterly right-of-way of U.S. Highway 19 (80 foot right-of-way) with the west line of Land Lot 757; thence north 78 degrees 00 minutes 00 seconds east along said right-of-way 36.58 feet to a concrete monument; thence north 76 degrees 58 minutes 03 seconds east along said right-of-way 116.24 feet to an iron pin found; thence north 76 degrees 58 minutes 13 seconds east along said right-of-way 264.88 feet to an iron pin found; thence leaving the right-of-way of U.S. Highway 19 and running south 01 degree 27 minutes 40 seconds west 928.73 feet to an iron pin found; thence south 87 degrees 52 minutes 40 seconds east 563.83 feet to an iron pin found; thence south 01 degree 42 minutes 35 seconds west 904.52 feet to an iron pin found; thence south 88 degrees 42 minutes 42 seconds east 402.00 feet to an iron pin found on the east line of Land Lot 828; thence south 01 degree 21 minutes 31 seconds west along the line dividing Land Lots 828 and 829 a distance of 256.50 feet to an iron pin found at the southeast corner of Land Lot 828; thence north 88 degrees 42 minutes 42 seconds west along the line dividing Land Lots 828 and 829 a distance of 862.85 feet to an iron pin found; thence north 88 degrees 42 minutes 00 seconds west along said Land Lot line 487.83 feet to an iron pin found at the southwest corner of Land Lot 828; thence north 00 degrees 46 minutes 45 seconds east along the line dividing Land Lots 827 and 828 a distance of 1276.30 feet to an iron pin found at the northwest corner of Land Lot 828; thence north 01 degree 25 minutes 00 seconds east along the Land Lot line dividing Land Lots 757 and 758 a distance of 718.85 feet to an iron pin found on the southeasterly right-of-way of U.S. Highway 19 marking the TRUE POINT OF BEGINNING.

The foregoing property is described in accordance with a survey for James D. Parker prepared by David W. Healle, Georgia Registered Land Surveyor No. 1872, dated May 29, 1986. Said parcel contains 36.16 acres, according to said survey.

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[Space Above Reserved For Recording Information]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
3500 Lenox Road, 4th Floor
Atlanta, Georgia 30326
Attn: KCG

STATE OF GEORGIA
COUNTY OF FULTON

Cross Reference: Deed Book 35494
Page 87

**AMENDMENT TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS FOR WYNDHAM, FULTON COUNTY, GEORGIA**

WHEREAS, the Declaration of Covenants and Restrictions for Wyndham, Fulton County, was recorded on July 24, 2003, in Deed Book 35494, Page 87, *et seq.*, Fulton County, Georgia Records, as amended ("Declaration"); and

WHEREAS, Article XII, Section 1 of the Declaration provides that it may be amended upon the approval of such amendment by those members of Wyndham Homeowners Association, Inc. ("Association") who own, in the aggregate, no fewer than sixty-seven percent (67%) of the Town Homes not owned by the Declarant; and

WHEREAS, Beazer Homes Corp. is the Declarant in the Declaration; and

WHEREAS, if the Declarant owns any Town Homes or any other portion of the Property (as defined in the Declaration), then the approval of the Declarant shall be required for this Amendment; and

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ. CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING ASSESSMENTS/CHARGES DUE ON LOTS.

WHEREAS, the Declarant does not own any Town Homes or any other portion of the Property; and

WHEREAS, if the Class B Membership has not terminated, then HUD and VA's approval may be required for amendments to the Declaration; and

WHEREAS, the Class B Membership has terminated pursuant to Article IV, Section 3(b) of the Declaration; and

WHEREAS, sixty-seven percent (67%) of the members of the Association desire to amend the Declaration and have approved this Amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article I of the Declaration is hereby amended by adding the following definition to the end thereof:

"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.

2.

Article IV of the Declaration is hereby amended by adding the following to the end thereof as Section 11:

Section 11. Georgia POA Act

The Property constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, et seq. (Michie 1982), as such Act may be amended from time to time. The Association shall have all rights and powers afforded under the Act.

3.

Article V of the Declaration is hereby amended by deleting Sections 1, 2, 3, 7, 8, 11, 12, and 13 and substituting the following therefor:

Section 1. Creation of the Lien and Personal Obligation for Assessments

Each Owner of any Town Home, 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 and specific special assessments, to be established and collected as hereinafter provided; and (iii) specific assessments levied by the Board hereunder against

any particular Town Home, including, but not limited to, reasonable fines imposed hereunder.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred shall be a charge on the Town Home and shall be a continuing lien upon the Town Home against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Town Home at the time when the assessment fell due. Each Owner 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. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Fulton County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever, including, but not limited to, nonuse of the Association Property, 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.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of common expenses on which the Board may base the annual assessments. The lien provided for herein shall have priority as provided in the Act.

Section 3. Capital Contribution Assessment Upon Transfer of Town Homes

In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Town Home, other than to the spouse or heir of the member, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment"). The assessment shall be collected at the closing of each such conveyance or transfer.

The Capital Contribution Assessment shall be an amount set yearly by the Board, provided the maximum shall be no higher than the greater of \$400 or an amount equal to six months' assessment applicable to such Town Home at the time of such conveyance or transfer.

The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Town Home, a continuing lien against such Town Home, and a personal obligation of the member of such Town Home and collected in the same manner as any other assessment.

Section 8. Delinquent Assessments

All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner of a Town Home shall be in default.

(a) If any assessments or any other charge, or any part thereof, is not paid in full within ten (10) days of the due date, or such later date as may be provided by the Board, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten percent (10%) per annum, or such higher rate as permitted by the Act, shall accrue from the due date.

If part payment of assessments and related charges is made, the amount received may be applied by the Board, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments.

(b) If assessments, fines or other charges, or any part thereof, due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment. If the Owner fails to pay all amounts currently due within ten (10) days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year, unless reinstated in the Board's discretion.

If assessments, fines or other charges, or any part thereof, 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 Bylaws, the Act and Georgia law, including reasonable attorney's fees actually incurred, and suspend the Owner's and Occupant's right to use the Association Property (provided, however, the Board may not deny ingress or egress to or from the Town Home).

Section 12. Statement of Account

Any Owner, mortgagee, or a person having executed a contract for the purchase of a Town Home, or a lender considering a loan to be secured by a Town Home, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Town Home. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the

payment of a fee, not exceeding ten dollars (\$10.00) or such higher amount as may be authorized under the Act, as a prerequisite to the assessments due on the Town Home as of the date specified therein. The Association may require an additional fee not to exceed twenty five dollars (\$25.00) if the Association provides a copy of the Declaration and Bylaws to any such person in connection with a closing or otherwise upon request.

4.

Article XII, Section 1 of the Declaration is hereby amended by adding the following to the end thereof:

Default Member Approval Procedure After Nonresponse. It is recognized that, when Class A members fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, vital amendments to the Declaration may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for member actions which are as significant as amending this Declaration. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Class A member an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration, but also a realistic mechanism for approving important amendments, without the damaging consequences of member nonresponse.

When the Board proposes an amendment to the Declaration that requires member approval, the Board shall issue notice of such proposed amendment to each Class A Member. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form, ballot in lieu of a meeting, or directed proxy, each complying with any requirements of the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-1, *et seq.*, giving members an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved by sufficient vote or defeated by sufficient vote within 90 days of the issuance of such notice, then the Board may seek to obtain default approval from Class A members under this subparagraph. In such case the Board shall, by certified mail, send or issue a default approval notice to all Class A members who have not voted or returned consents or ballot on a proposed amendment within the 90 day period. The default approval notice shall include a consent form or ballot, as provided above, along with a statement that the member's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within the time specified, the member will be deemed to have consented to and approved the amendment.

5.

Article XIII, Section 4(b) of the Declaration is amended by deleting the words "fifteen percent of the aggregate amount due for attorney's fees" and substituting the following in its place: "reasonable attorney's fees actually incurred."

6.

Article XIII of the Declaration is amended by deleting Section 5 therefrom.

7.

Article XV, Section 9 of the Declaration is hereby deleted and replaced with the following Section 9:

Section 9. Duration

This Declaration, as amended, shall run with and bind the Property perpetually to the extent provided in the Act.

IN WITNESS WHEREOF, the undersigned officers of Wyndham Homeowners Association, Inc. hereby certify that the above amendments to the Declaration were adopted by the required majority of the Class A members of the Association, with any required notices duly given.

This 5th day of November, 2008.

SWORN TO AND SUBSCRIBED
BEFORE ME this 5th day of
November, 2008.

WYNDHAM HOMEOWNERS ASSOCIATION, INC.

Colin Allerton
Witness

By: [Signature] (Seal)
President

Kathleen Brown
Notary Public

Attest: [Signature] (Seal)
Secretary
Vice President

[NOTARY SEAL]

[CORPORATE SEAL]



Deed Book 47357 Pg 151
Filed and Recorded Nov-13-2008 09:03am
2008-0298802
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

[Space Above Reserved For Recording Information]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
3500 Lenox Road, 4th Floor
Atlanta, Georgia 30326
Attn: KCG

STATE OF GEORGIA
COUNTY OF FULTON

Cross Reference: Deed Book 35494
Page 87

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AND RESTRICTIONS FOR WYNDHAM, FULTON COUNTY, GEORGIA**

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WHEREAS, if the Declarant owns any Town Homes or any other portion of the Property (as defined in the Declaration), then the approval of the Declarant shall be required for this Amendment; and

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any particular Town Home, including, but not limited to, reasonable fines imposed hereunder.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred shall be a charge on the Town Home and shall be a continuing lien upon the Town Home against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Town Home at the time when the assessment fell due. Each Owner 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. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Fulton County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever, including, but not limited to, nonuse of the Association Property, 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.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of common expenses on which the Board may base the annual assessments. The lien provided for herein shall have priority as provided in the Act.

Section 3. Capital Contribution Assessment Upon Transfer of Town Homes

In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Town Home, other than to the spouse or heir of the member, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment"). The assessment shall be collected at the closing of each such conveyance or transfer.

The Capital Contribution Assessment shall be an amount set yearly by the Board, provided the maximum shall be no higher than the greater of \$400 or an amount equal to six months' assessment applicable to such Town Home at the time of such conveyance or transfer.

The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Town Home, a continuing lien against such Town Home, and a personal obligation of the member of such Town Home and collected in the same manner as any other assessment.

Section 8. Delinquent Assessments

All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner of a Town Home shall be in default.

(a) If any assessments or any other charge, or any part thereof, is not paid in full within ten (10) days of the due date, or such later date as may be provided by the Board, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten percent (10%) per annum, or such higher rate as permitted by the Act, shall accrue from the due date.

If part payment of assessments and related charges is made, the amount received may be applied by the Board, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments.

(b) If assessments, fines or other charges, or any part thereof, due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment. If the Owner fails to pay all amounts currently due within ten (10) days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year, unless reinstated in the Board's discretion.

If assessments, fines or other charges, or any part thereof, 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 Bylaws, the Act and Georgia law, including reasonable attorney's fees actually incurred, and suspend the Owner's and Occupant's right to use the Association Property (provided, however, the Board may not deny ingress or egress to or from the Town Home).

Section 12. Statement of Account

Any Owner, mortgagee, or a person having executed a contract for the purchase of a Town Home, or a lender considering a loan to be secured by a Town Home, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Town Home. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the

payment of a fee, not exceeding ten dollars (\$10.00) or such higher amount as may be authorized under the Act, as a prerequisite to the assessments due on the Town Home as of the date specified therein. The Association may require an additional fee not to exceed twenty five dollars (\$25.00) if the Association provides a copy of the Declaration and Bylaws to any such person in connection with a closing or otherwise upon request.

4.

Article XII, Section 1 of the Declaration is hereby amended by adding the following to the end thereof:

Default Member Approval Procedure After Nonresponse. It is recognized that, when Class A members fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, vital amendments to the Declaration may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for member actions which are as significant as amending this Declaration. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Class A member an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration, but also a realistic mechanism for approving important amendments, without the damaging consequences of member nonresponse.

When the Board proposes an amendment to the Declaration that requires member approval, the Board shall issue notice of such proposed amendment to each Class A Member. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form, ballot in lieu of a meeting, or directed proxy, each complying with any requirements of the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-1, *et seq.*, giving members an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved by sufficient vote or defeated by sufficient vote within 90 days of the issuance of such notice, then the Board may seek to obtain default approval from Class A members under this subparagraph. In such case the Board shall, by certified mail, send or issue a default approval notice to all Class A members who have not voted or returned consents or ballot on a proposed amendment within the 90 day period. The default approval notice shall include a consent form or ballot, as provided above, along with a statement that the member's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within the time specified, the member will be deemed to have consented to and approved the amendment.

5.

Article XIII, Section 4(b) of the Declaration is amended by deleting the words "fifteen percent of the aggregate amount due for attorney's fees" and substituting the following in its place: "reasonable attorney's fees actually incurred."

6.

Article XIII of the Declaration is amended by deleting Section 5 therefrom.

7.

Article XV, Section 9 of the Declaration is hereby deleted and replaced with the following Section 9:

Section 9. Duration

This Declaration, as amended, shall run with and bind the Property perpetually to the extent provided in the Act.

IN WITNESS WHEREOF, the undersigned officers of Wyndham Homeowners Association, Inc. hereby certify that the above amendments to the Declaration were adopted by the required majority of the Class A members of the Association, with any required notices duly given.

This 5th day of November, 2008.

SWORN TO AND SUBSCRIBED
BEFORE ME this 5th day of
November, 2008.

WYNDHAM HOMEOWNERS ASSOCIATION, INC.

Allen Afferton
Witness

By: [Signature] (Seal)
President

Katherine Bras
Notary Public

Attest: [Signature] (Seal)
Secretary
Vice President

[NOTARY SEAL]



[CORPORATE SEAL]

[Above Space Reserved For Recording]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
Attn: KCG

STATE OF GEORGIA
COUNTY OF FULTON

Cross Reference: Deed Book 35494
Page 87

**AMENDMENT TO THE DECLARATION OF COVENANTS, EASEMENTS AND
RESTRICTIONS FOR WYNDHAM**

WHEREAS, Beazer Homes Corp. ("Declarant") recorded that certain Declaration of Covenants, Easements and Restrictions for Wyndham on July 24, 2003, in Deed Book 35494, Page 87, *et seq.*, in the Fulton County, Georgia land records ("Declaration"); and

WHEREAS, the Declaration has been previously amended by that certain amendment to the Declaration of Covenants, Easements and Restrictions for Wyndham, as recorded on November 13, 2008, in Deed Book 47357, Page 151, *et seq.*, in the Fulton County, Georgia land records; and

WHEREAS, Article XII, Section 1 of the Declaration provides that the Declaration may be amended upon the approval of such amendment by those members of the Wyndham Homeowners Association, Inc. ("Association") who own, in the aggregate, no fewer than sixty-seven percent (67%) of the Town Homes not owned by the Declarant; and

WHEREAS, sixty-seven percent (67%) of the members of the Association desire to amend the Declaration and have approved this amendment; and

WHEREAS, Article XII, Section 1 of the Declaration further provides that if the Declarant owns any Town Homes or any other portion of the Property (as defined in the Declaration), then the approval of the Declarant shall be required for this amendment; and

WHEREAS, the Declarant does not own any Town Homes or any other portion of the Property and, therefore, the Declarant's consent to this amendment is not required; and

WHEREAS, Article XII, Section 1 of the Declaration also provides that if the Class B Membership has not terminated, then HUD and VA's approval shall be required for this amendment; and

WHEREAS, the Class B Membership has terminated pursuant to Article IV, Section 3(b) of the Declaration and, therefore, HUD and VA's approval is not required for this amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article IX of the Declaration is hereby amended by deleting Section 14 in its entirety and the following new Section 14 is substituted therefor:

Section 14. Satellite Dishes. Except as provided below in this Section or otherwise approved by the Board of Directors, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Property, whether attached to a home or structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Town Home owners:

(a) No transmission antenna, of any kind, may be erected anywhere on the Property without written approval of the Board of Directors or the Architectural Control Committee.

(b) No direct broadcast satellite ("DBS") antenna or multi-channel multi-point distribution service ("MMDS") larger than one meter in diameter shall be placed, allowed, or maintained on any portion of the Property, including a Town Home.

(c) DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communications Commission rules ("FCC Rules") and the rules and regulations of the Association, both as may be amended from time to time. Any such devices shall be installed in the least conspicuous location available on the Town Home that permits reception of an acceptable quality signal.

2.

Article IX of the Declaration is hereby amended by adding Section 24 to the end thereto:

Section 24. Leasing. In order to protect the equity of the individual Town Home owners at Wyndham and to carry out the purpose for which the community was formed by preserving the character of the Property as a homogenous residential community of predominantly owner-

occupied homes, leasing of Town Homes shall be governed by the restrictions imposed by this Section. Except as provided herein, leasing of Town Homes is prohibited.

(a) Definitions.

(i) "Effective Date" means the date this amendment is recorded in the Fulton County, Georgia land records.

(ii) "Grandfathered Owner" means an owner of a Town Home who is lawfully leasing his or her Town Home on the Effective Date. Grandfathering shall apply only to the Town Home owned by such Grandfathered Owner on the Effective Date. Grandfathering hereunder shall continue only until the date the Grandfathered Owner conveys title to the Grandfathered Town Home to any other person (other than the owner's spouse). Upon such event, the Town Home shall automatically lose Grandfathering hereunder. In order to qualify for Grandfathering status, a Town Home owner must submit a copy of a valid, existing lease to the Board of Directors no later than sixty (60) days after the Effective Date.

(iii) "Grandfathered Town Home" means the Town Home owned by a Grandfathered Owner on the Effective Date hereof.

(iv) "Leasing" means the regular, exclusive occupancy of a Town Home by any person(s) other than: (1) the owner or a parent, child or spouse of an owner, or (2) a person who occupies the Town Home with the owner or parent, child or spouse of the owner occupying the Town Home as his or her primary residence.

(b) Leasing Permit and Restriction. No owner of a Town Home may lease his or her Town Home unless: (1) the owner is a Grandfathered Owner, (2) the owner is not a Grandfathered Owner but has received a written leasing permit from the Board of Directors authorizing leasing, or (3) the owner is not a Grandfathered Owner but has received a hardship leasing permit from the Board as provided below.

Non-Grandfathered Owners who want to lease their Town Homes may do so only if they have applied for and received from the Board of Directors either a "leasing permit" or a "hardship leasing permit." Such a permit will allow an owner to lease his or her Town Home, provided that such leasing is in strict accordance with the terms of the permit and this Section. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All leasing permits and hardship leasing permits shall be valid only as to a specific owner and Town Home and shall not be transferable between either Town Homes or owners (including a subsequent owner of a Town Home where a permit was issued to the owner's predecessor in title).

An owner's request for a leasing permit may be approved if the number of current, outstanding leasing permits issued plus Grandfathered Town Homes is less than ten (10%) percent of the Town Homes in the community.

Leasing permits and hardship leasing permits are automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Town Home to a third party (excluding sales or transfers to an owner's spouse); or (2) the failure of an owner to lease his or her Town Home for 120 consecutive days at any time after the issuance of such permit.

If the number of current leasing permits issued and Grandfathered Town Homes is more than ten (10%) percent of the Town Homes, then no additional leasing permits shall be issued (except for hardship leasing permits) until that number falls below ten (10%) percent. Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued a permit, if they so desire, when such number falls below ten (10%) percent. The issuance of a hardship leasing permit to an owner shall not cause the owner to be removed from the waiting list for a leasing permit.

(c) Hardship Leasing Permits. If the failure to lease will result in an undue hardship to the owner, then the owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the community if the permit is approved, (3) the number of hardship leasing permits which have been issued to other owners, (4) the owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) an owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Town Home was placed on the market, sell the Town Home except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) an owner dies and the Town Home is being administered by his or her estate; or (3) an owner takes a leave of absence or temporarily relocates out of the metropolitan-Atlanta area and intends to return to reside in the Town Home within one (1) year.

Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant. Hardship leasing permits shall be automatically revoked if, during the term of the permit, the owner is approved for and receives a leasing permit.

(d) Leasing Provisions. When leasing is permitted under this Section, it shall be governed by the following provisions:

(i) Notice. At least seven (7) days before entering into a lease, the owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If a lease is disapproved, the Board shall notify the owner of the action to be taken to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(ii) General. Town Homes may be leased only in their entirety; no rooms or fractions of Town Homes may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Town Homes or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within 15 days after executing a lease agreement for the lease of a Town Home, the owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Town Home. The owner must provide the lessee copies of the Declaration, By-Laws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iii) Liability for Assessments; Compliance. Each owner covenants and agrees that any lease of a Town Home shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Town Home, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(iv) Compliance with Declaration, By-Laws, and Rules and Regulations. The owner and lessee shall comply with all provisions of the Declaration, By-Laws and Association rules and shall control the conduct of all other occupants and guests of the leased Town Home in order to ensure such compliance. The owner shall cause all occupants of his or her Town Home to comply with the Declaration, By-Laws and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any such violation.

If a Town Home is leased or occupied in violation of this Section or if the owner, lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the owner, to suspend all voting and/or Association Property use privileges of the owner, occupants and unauthorized tenant(s) and to suspend all common services to the Town Home paid for by the Association as a common expense, including water service to the Town Home, subject to the provisions of this Declaration and the By-Laws.

If a Town Home is leased or occupied in violation of this Section, the Association may require the owner to evict the tenant. If the owner, lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the owner, in accordance with the terms hereof. Alternatively, the Association may require the owner to evict the violating lessee. If the Association proceeds to

evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Town Home.

(v) Use of Association Property. The owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the owner has to use the Association Property, including, but not limited to, the use of any and all recreational facilities.

(vi) Liability for Assessments. When an owner who is leasing his or her Town Home fails to pay any annual or special assessment or any other charge for a period of more than 30 days after it is due and payable, then the delinquent owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an owner. The above provision shall not be construed to release the owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(e) Leasing Statement. Any Town Home owner or person having executed a lease requesting a recordable statement certifying to the receipt by the Association of the notice herein specified, or the waiver of the Association's rights to receive such notice shall be furnished such a statement. Any such statement shall be binding on the Association and every Town Home owner. Payment of a fee, not exceeding \$25.00, may be required as a prerequisite to the issuance of such a statement.

(f) Applicability of this Section. Notwithstanding the above, this Section shall not apply to any leasing transaction entered into by the Association, or by any first mortgagee who becomes the owner of a Town Home through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such mortgage. Such parties shall be permitted to lease a Town Home without first obtaining a permit in accordance with this Section, and such Town Homes shall not be considered as being leased in determining the maximum number of Town Homes that may be leased in accordance with this Section.

[SIGNATURES CONTINUED ON THE NEXT PAGE].

IN WITNESS WHEREOF, the undersigned officers of Wyndham Homeowners Association, Inc. hereby certify that the above amendments to the Declaration were adopted by the requisite percentage of the members of the Association, with any required notices duly given.

This 1 day of June, 2009.

Sworn and subscribed
Before me this _____ day of _____, 2009.

WYNDHAM HOMEOWNERS ASSOCIATION, INC.

[Signature]
Witness

By: [Signature] (Seal)
President

[Signature]
Notary Public

Attest: [Signature] (Seal)
Secretary

[NOTARY SEAL]

[CORPORATE SEAL]



Deed Book 47357 Pg 151
Filed and Recorded Nov-13-2006 09:03am
2008-0298802
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

[Space Above Reserved For Recording Information]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
3500 Lenox Road, 4th Floor
Atlanta, Georgia 30326
Attr: KCG

STATE OF GEORGIA
COUNTY OF FULTON

Cross Reference: Deed Book 35494
Page 87

**AMENDMENT TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS FOR WYNDHAM, FULTON COUNTY, GEORGIA**

WHEREAS, the Declaration of Covenants and Restrictions for Wyndham, Fulton County, was recorded on July 24, 2003, in Deed Book 35494, Page 87, *et seq.*, Fulton County, Georgia Records, as amended ("Declaration"); and

WHEREAS, Article XII, Section 1 of the Declaration provides that it may be amended upon the approval of such amendment by those members of Wyndham Homeowners Association, Inc. ("Association") who own, in the aggregate, no fewer than sixty-seven percent (67%) of the Town Homes not owned by the Declarant; and

WHEREAS, Beazer Homes Corp. is the Declarant in the Declaration; and

WHEREAS, if the Declarant owns any Town Homes or any other portion of the Property (as defined in the Declaration), then the approval of the Declarant shall be required for this Amendment; and

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ. CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING ASSESSMENTS/CHARGES DUE ON LOTS.

WHEREAS, the Declarant does not own any Town Homes or any other portion of the Property; and

WHEREAS, if the Class B Membership has not terminated, then HUD and VA's approval may be required for amendments to the Declaration; and

WHEREAS, the Class B Membership has terminated pursuant to Article IV, Section 3(b) of the Declaration; and

WHEREAS, sixty-seven percent (67%) of the members of the Association desire to amend the Declaration and have approved this Amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article I of the Declaration is hereby amended by adding the following definition to the end thereof:

"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.

2.

Article IV of the Declaration is hereby amended by adding the following to the end thereof as Section 11:

Section 11. Georgia POA Act

The Property constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, et seq. (Michie 1982), as such Act may be amended from time to time. The Association shall have all rights and powers afforded under the Act.

3.

Article V of the Declaration is hereby amended by deleting Sections 1, 2, 3, 7, 8, 11, 12, and 13 and substituting the following therefor:

Section 1. Creation of the Lien and Personal Obligation for Assessments

Each Owner of any Town Home, 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 and specific special assessments, to be established and collected as hereinafter provided; and (iii) specific assessments levied by the Board hereunder against

any particular Town Home, including, but not limited to, reasonable fines imposed hereunder.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred shall be a charge on the Town Home and shall be a continuing lien upon the Town Home against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Town Home at the time when the assessment fell due. Each Owner 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. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Fulton County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each calendar month. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever, including, but not limited to, nonuse of the Association Property, 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.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of common expenses on which the Board may base the annual assessments. The lien provided for herein shall have priority as provided in the Act.

Section 3. Capital Contribution Assessment Upon Transfer of Town Homes

In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Town Home, other than to the spouse or heir of the member, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment"). The assessment shall be collected at the closing of each such conveyance or transfer.

The Capital Contribution Assessment shall be an amount set yearly by the Board, provided the maximum shall be no higher than the greater of \$400 or an amount equal to six months' assessment applicable to such Town Home at the time of such conveyance or transfer.

The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Town Home, a continuing lien against such Town Home, and a personal obligation of the member of such Town Home and collected in the same manner as any other assessment.

Section 8. Delinquent Assessments

All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner of a Town Home shall be in default.

(a) If any assessments or any other charge, or any part thereof, is not paid in full within ten (10) days of the due date, or such later date as may be provided by the Board, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten percent (10%) per annum, or such higher rate as permitted by the Act, shall accrue from the due date.

If part payment of assessments and related charges is made, the amount received may be applied by the Board, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments.

(b) If assessments, fines or other charges, or any part thereof, due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment. If the Owner fails to pay all amounts currently due within ten (10) days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year, unless reinstated in the Board's discretion.

If assessments, fines or other charges, or any part thereof, 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 Bylaws, the Act and Georgia law, including reasonable attorney's fees actually incurred, and suspend the Owner's and Occupant's right to use the Association Property (provided, however, the Board may not deny ingress or egress to or from the Town Home).

Section 12. Statement of Account

Any Owner, mortgagee, or a person having executed a contract for the purchase of a Town Home, or a lender considering a loan to be secured by a Town Home, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Town Home. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the

payment of a fee, not exceeding ten dollars (\$10.00) or such higher amount as may be authorized under the Act, as a prerequisite to the assessments due on the Town Home as of the date specified therein. The Association may require an additional fee not to exceed twenty five dollars (\$25.00) if the Association provides a copy of the Declaration and Bylaws to any such person in connection with a closing or otherwise upon request.

4.

Article XII, Section 1 of the Declaration is hereby amended by adding the following to the end thereof:

Default Member Approval Procedure After Nonresponse. It is recognized that, when Class A members fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, vital amendments to the Declaration may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for member actions which are as significant as amending this Declaration. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Class A member an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration, but also a realistic mechanism for approving important amendments, without the damaging consequences of member nonresponse.

When the Board proposes an amendment to the Declaration that requires member approval, the Board shall issue notice of such proposed amendment to each Class A Member. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form, ballot in lieu of a meeting, or directed proxy, each complying with any requirements of the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-1, *et seq.*, giving members an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved by sufficient vote or defeated by sufficient vote within 90 days of the issuance of such notice, then the Board may seek to obtain default approval from Class A members under this subparagraph. In such case the Board shall, by certified mail, send or issue a default approval notice to all Class A members who have not voted or returned consents or ballot on a proposed amendment within the 90 day period. The default approval notice shall include a consent form or ballot, as provided above, along with a statement that the member's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within the time specified, the member will be deemed to have consented to and approved the amendment.

5.

Article XIII, Section 4(b) of the Declaration is amended by deleting the words "fifteen percent of the aggregate amount due for attorney's fees" and substituting the following in its place: "reasonable attorney's fees actually incurred."

6.

Article XIII of the Declaration is amended by deleting Section 5 therefrom.

7.

Article XV, Section 9 of the Declaration is hereby deleted and replaced with the following Section 9:

Section 9. Duration

This Declaration, as amended, shall run with and bind the Property perpetually to the extent provided in the Act.

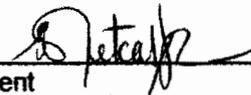
IN WITNESS WHEREOF, the undersigned officers of Wyndham Homeowners Association, Inc. hereby certify that the above amendments to the Declaration were adopted by the required majority of the Class A members of the Association, with any required notices duly given.

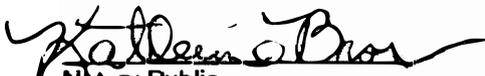
This 5th day of November, 2008.

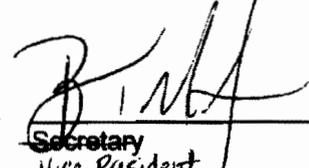
SWORN TO AND SUBSCRIBED
BEFORE ME this 5th day of
November, 2008.

WYNDHAM HOMEOWNERS ASSOCIATION, INC.


Witness

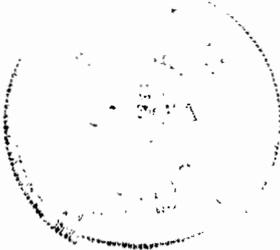
By:  (Seal)
President


Notary Public

Attest:  (Seal)
Secretary
Vice President

[NOTARY SEAL]

[CORPORATE SEAL]



[Above Space Reserved For Recording]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
Attn: KCG

STATE OF GEORGIA
COUNTY OF FULTON

Cross Reference: Deed Book 35494
Page 87

**AMENDMENT TO THE DECLARATION OF COVENANTS, EASEMENTS AND
RESTRICTIONS FOR WYNDHAM**

WHEREAS, Beazer Homes Corp. ("Declarant") recorded that certain Declaration of Covenants, Easements and Restrictions for Wyndham on July 24, 2003, in Deed Book 35494, Page 87, *et seq.*, in the Fulton County, Georgia land records ("Declaration"); and

WHEREAS, the Declaration has been previously amended by that certain amendment to the Declaration of Covenants, Easements and Restrictions for Wyndham, as recorded on November 13, 2008, in Deed Book 47357, Page 151, *et seq.*, in the Fulton County, Georgia land records; and

WHEREAS, Article XII, Section 1 of the Declaration provides that the Declaration may be amended upon the approval of such amendment by those members of the Wyndham Homeowners Association, Inc. ("Association") who own, in the aggregate, no fewer than sixty-seven percent (67%) of the Town Homes not owned by the Declarant; and

WHEREAS, sixty-seven percent (67%) of the members of the Association desire to amend the Declaration and have approved this amendment; and

WHEREAS, Article XII, Section 1 of the Declaration further provides that if the Declarant owns any Town Homes or any other portion of the Property (as defined in the Declaration), then the approval of the Declarant shall be required for this amendment; and

WHEREAS, the Declarant does not own any Town Homes or any other portion of the Property and, therefore, the Declarant's consent to this amendment is not required; and

WHEREAS, Article XII, Section 1 of the Declaration also provides that if the Class B Membership has not terminated, then HUD and VA's approval shall be required for this amendment; and

WHEREAS, the Class B Membership has terminated pursuant to Article IV, Section 3(b) of the Declaration and, therefore, HUD and VA's approval is not required for this amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article IX of the Declaration is hereby amended by deleting Section 14 in its entirety and the following new Section 14 is substituted therefor:

Section 14. Satellite Dishes. Except as provided below in this Section or otherwise approved by the Board of Directors, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Property, whether attached to a home or structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Town Home owners:

(a) No transmission antenna, of any kind, may be erected anywhere on the Property without written approval of the Board of Directors or the Architectural Control Committee.

(b) No direct broadcast satellite ("DBS") antenna or multi-channel multi-point distribution service ("MMDS") larger than one meter in diameter shall be placed, allowed, or maintained on any portion of the Property, including a Town Home.

(c) DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communications Commission rules ("FCC Rules") and the rules and regulations of the Association, both as may be amended from time to time. Any such devices shall be installed in the least conspicuous location available on the Town Home that permits reception of an acceptable quality signal.

2.

Article IX of the Declaration is hereby amended by adding Section 24 to the end thereto:

Section 24. Leasing. In order to protect the equity of the individual Town Home owners at Wyndham and to carry out the purpose for which the community was formed by preserving the character of the Property as a homogenous residential community of predominantly owner-

occupied homes, leasing of Town Homes shall be governed by the restrictions imposed by this Section. Except as provided herein, leasing of Town Homes is prohibited.

(a) Definitions.

(i) "Effective Date" means the date this amendment is recorded in the Fulton County, Georgia land records.

(ii) "Grandfathered Owner" means an owner of a Town Home who is lawfully leasing his or her Town Home on the Effective Date. Grandfathering shall apply only to the Town Home owned by such Grandfathered Owner on the Effective Date. Grandfathering hereunder shall continue only until the date the Grandfathered Owner conveys title to the Grandfathered Town Home to any other person (other than the owner's spouse). Upon such event, the Town Home shall automatically lose Grandfathering hereunder. In order to qualify for Grandfathering status, a Town Home owner must submit a copy of a valid, existing lease to the Board of Directors no later than sixty (60) days after the Effective Date.

(iii) "Grandfathered Town Home" means the Town Home owned by a Grandfathered Owner on the Effective Date hereof.

(iv) "Leasing" means the regular, exclusive occupancy of a Town Home by any person(s) other than: (1) the owner or a parent, child or spouse of an owner, or (2) a person who occupies the Town Home with the owner or parent, child or spouse of the owner occupying the Town Home as his or her primary residence.

(b) Leasing Permit and Restriction. No owner of a Town Home may lease his or her Town Home unless: (1) the owner is a Grandfathered Owner, (2) the owner is not a Grandfathered Owner but has received a written leasing permit from the Board of Directors authorizing leasing, or (3) the owner is not a Grandfathered Owner but has received a hardship leasing permit from the Board as provided below.

Non-Grandfathered Owners who want to lease their Town Homes may do so only if they have applied for and received from the Board of Directors either a "leasing permit" or a "hardship leasing permit." Such a permit will allow an owner to lease his or her Town Home, provided that such leasing is in strict accordance with the terms of the permit and this Section. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All leasing permits and hardship leasing permits shall be valid only as to a specific owner and Town Home and shall not be transferable between either Town Homes or owners (including a subsequent owner of a Town Home where a permit was issued to the owner's predecessor in title).

An owner's request for a leasing permit may be approved if the number of current, outstanding leasing permits issued plus Grandfathered Town Homes is less than ten (10%) percent of the Town Homes in the community.

Leasing permits and hardship leasing permits are automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Town Home to a third party (excluding sales or transfers to an owner's spouse); or (2) the failure of an owner to lease his or her Town Home for 120 consecutive days at any time after the issuance of such permit.

If the number of current leasing permits issued and Grandfathered Town Homes is more than ten (10%) percent of the Town Homes, then no additional leasing permits shall be issued (except for hardship leasing permits) until that number falls below ten (10%) percent. Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued a permit, if they so desire, when such number falls below ten (10%) percent. The issuance of a hardship leasing permit to an owner shall not cause the owner to be removed from the waiting list for a leasing permit.

(c) Hardship Leasing Permits. If the failure to lease will result in an undue hardship to the owner, then the owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the community if the permit is approved, (3) the number of hardship leasing permits which have been issued to other owners, (4) the owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) an owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Town Home was placed on the market, sell the Town Home except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) an owner dies and the Town Home is being administered by his or her estate; or (3) an owner takes a leave of absence or temporarily relocates out of the metropolitan-Atlanta area and intends to return to reside in the Town Home within one (1) year.

Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant. Hardship leasing permits shall be automatically revoked if, during the term of the permit, the owner is approved for and receives a leasing permit.

(d) Leasing Provisions. When leasing is permitted under this Section, it shall be governed by the following provisions:

(i) Notice. At least seven (7) days before entering into a lease, the owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If a lease is disapproved, the Board shall notify the owner of the action to be taken to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(ii) General. Town Homes may be leased only in their entirety; no rooms or fractions of Town Homes may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Town Homes or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within 15 days after executing a lease agreement for the lease of a Town Home, the owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Town Home. The owner must provide the lessee copies of the Declaration, By-Laws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iii) Liability for Assessments; Compliance. Each owner covenants and agrees that any lease of a Town Home shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Town Home, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(iv) Compliance with Declaration, By-Laws, and Rules and Regulations. The owner and lessee shall comply with all provisions of the Declaration, By-Laws and Association rules and shall control the conduct of all other occupants and guests of the leased Town Home in order to ensure such compliance. The owner shall cause all occupants of his or her Town Home to comply with the Declaration, By-Laws and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any such violation.

If a Town Home is leased or occupied in violation of this Section or if the owner, lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the owner, to suspend all voting and/or Association Property use privileges of the owner, occupants and unauthorized tenant(s) and to suspend all common services to the Town Home paid for by the Association as a common expense, including water service to the Town Home, subject to the provisions of this Declaration and the By-Laws.

If a Town Home is leased or occupied in violation of this Section, the Association may require the owner to evict the tenant. If the owner, lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the owner, in accordance with the terms hereof. Alternatively, the Association may require the owner to evict the violating lessee. If the Association proceeds to

evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Town Home.

(v) Use of Association Property. The owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the owner has to use the Association Property, including, but not limited to, the use of any and all recreational facilities.

(vi) Liability for Assessments. When an owner who is leasing his or her Town Home fails to pay any annual or special assessment or any other charge for a period of more than 30 days after it is due and payable, then the delinquent owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an owner. The above provision shall not be construed to release the owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(e) Leasing Statement. Any Town Home owner or person having executed a lease requesting a recordable statement certifying to the receipt by the Association of the notice herein specified, or the waiver of the Association's rights to receive such notice shall be furnished such a statement. Any such statement shall be binding on the Association and every Town Home owner. Payment of a fee, not exceeding \$25.00, may be required as a prerequisite to the issuance of such a statement.

(f) Applicability of this Section. Notwithstanding the above, this Section shall not apply to any leasing transaction entered into by the Association, or by any first mortgagee who becomes the owner of a Town Home through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such mortgage. Such parties shall be permitted to lease a Town Home without first obtaining a permit in accordance with this Section, and such Town Homes shall not be considered as being leased in determining the maximum number of Town Homes that may be leased in accordance with this Section.

[SIGNATURES CONTINUED ON THE NEXT PAGE].

IN WITNESS WHEREOF, the undersigned officers of Wyndham Homeowners Association, Inc. hereby certify that the above amendments to the Declaration were adopted by the requisite percentage of the members of the Association, with any required notices duly given.

This 1 day of June, 2009.

Sworn and subscribed
Before me this _____ day of _____, 2009.

WYNDHAM HOMEOWNERS ASSOCIATION, INC.

[Signature]
Witness

By: [Signature] (Seal)
President

[Signature]
Notary Public

Attest: [Signature] (Seal)
Secretary

[NOTARY SEAL]

[CORPORATE SEAL]



**RESOLUTION OF THE BOARD OF DIRECTORS OF
WYNDHAM HOMEOWNERS ASSOCIATION, INC.**

**BOARD RESOLUTION REGARDING CAPITAL CONTRIBUTION
ASSESSMENT UPON TRANSFER OF TOWN HOMES**

WHEREAS, the governing documents of Wyndham include the Declaration of Covenants, Restrictions and Easements for Wyndham, Fulton County, Georgia, as amended ("Declaration") and the Bylaws of Wyndham Homeowners Association, Inc. ("Bylaws"); and

WHEREAS, pursuant to an Amendment to the Declaration recorded on November 13, 2008 at Deed Book 47357, Page 151, *et seq.* of the Fulton County, Georgia property records, Article V, Section 3 of the Declaration was amended to allow for the Capital Contribution Assessment to be an amount set yearly by the Board, provided that the maximum shall be no higher than the greater of \$400.00 or an amount equal to six months' assessment applicable to such Town Home at the time of such conveyance or transfer; and

WHEREAS, the Board of Directors, under Article IV, Section 4 of the Declaration, is charged with the authority to manage the affairs of the Association; and

WHEREAS, in accordance with Article V, Section 3 of the Declaration, the Board of Directors is authorized to adopt this resolution to determine the Capital Contribution Amount;

WHEREAS, six months' assessment, as of August 24, 2011, totals \$810.00, which constitutes monthly assessments in the amount of \$135.00 per month; and

WHEREAS, the current Capital Contribution Amount applicable to such Town Home, as of August 24, 2011, is \$400.00; and

WHEREAS, the Board of Directors has determined that it is in the best interest of the Association to change the Capital Contribution Amount to \$500.00, which is not higher than the amount equal to six months' assessment applicable to such Town Home at the time of such conveyance or transfer; and

WHEREAS, upon motion and proper introduction of this Resolution, and the matter having been discussed and having been duly seconded, the Board of Directors, agreed as follows:

NOW, THEREFORE, BE IT RESOLVED that the Capital Contribution Amount is set at \$500.00, which does not exceed the maximum threshold and will be applicable to such Town Home at the time of such conveyance or transfer, once adopted by the Board of Directors and mailed or delivered to the Owners at Wyndham.

This Resolution contained herein shall be effective upon adoption by the Board of Directors and the mailing or delivering of a copy of this Resolution to the Owners at Wyndham.

RESOLVED AND ADOPTED by the Board of Directors of Wyndham Homeowners Association, Inc. this 6th day of September 2011.

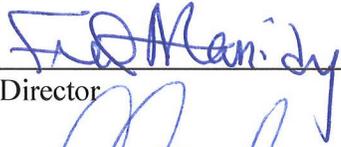
WYNDHAM HOMEOWNERS ASSOCIATION, INC.



Director



Director



Director



Director



Director

Finning Structure for “un-approved leasing”

All Board Members agree:

If an owner is leasing with out the approval of the board of directors, and is deemed to be in violation. The fining structure to be applied following adequate notice will be as follows:

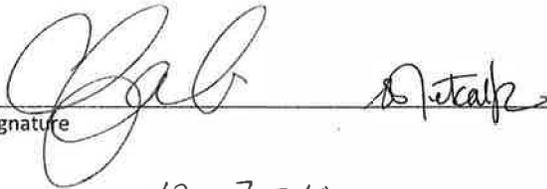
One Time Fine Amount- \$250

Ongoing Amount-\$ 25 daily until in compliance.

When the owner’s balance reaches \$2000, the file is to be sent to Legal.

- A notice of violation is sent for un- approved leasing.
- After 15 days, no response or confirmation of lease is received a fine of \$250 will be applied to the account. If this is the second violation then an ongoing fine of \$25 will be applied until the violation is in compliance.
- If owner/residents get behind in dues, due to this reason, the same enforcement rules apply. Which includes, but not limited to revoked water services, and vehicle privileges on an ongoing basis.

Board Signature



Date

12-7-10

**RESOLUTION OF THE BOARD OF DIRECTORS OF
WYNDHAM HOMEOWNERS ASSOCIATION, INC.**

**SUSPENSION OF PARKING PRIVILEGES
AND IMMOBILIZING/TOWING OF VEHICLES
DUE TO DELINQUENT ASSESSMENTS**

WHEREAS, Article III, Section 2 of the Declaration of Covenants, Easements and Restrictions for Wyndham ("Declaration") and Article IV, Section 4.12(a) of the By-Laws of Wyndham Homeowners Association, Inc. ("By-Laws") grants the Board of Directors of the Wyndham Homeowners Association, Inc. ("Association") the authority to promulgate and enforce reasonable rules and regulations governing the use of the Association Property, including parking vehicles on the Association Property; and

WHEREAS, the streets and driveways in the Wyndham community are privately owned by the Association and are Association Property; and

WHEREAS, Article III, Section 2 of the Declaration and Article IV, Section 4.12(b) of the By-Laws grants the Association the authority to suspend the right to use the Association Property during any period which any assessment becomes delinquent and remains unpaid; and

WHEREAS, Article XIII, Section 2(b) of the Declaration further grants the Association the authority to exercise the right of self help to remove any violation of the Declaration and rules and regulations promulgated by the Board of Directors; and

WHEREAS, prompt and timely payment and collection of assessments due from each Town Home Owner is essential for the proper operation of Wyndham; and

WHEREAS, repeated and excessive delinquencies in payment of assessments cause the Association to incur significant trouble and expense in pursuing collection of the delinquent assessments and creates an inequity by forcing others to subsidize the expenses related to maintaining, repairing and operating the Association Property;

NOW, THEREFORE, the Board of Directors of Wyndham Homeowners Association, Inc., hereby sets forth and adopts the following policies, rules and regulations regarding the suspension of parking and towing and/or booting of vehicles:

Parking Rule

Parking a vehicle on the Association Property roads, driveways, and parking areas is conditional on the payment of assessments in accordance with Article V of the Declaration.

Suspension of Parking

1.1 If assessments and other charges or any part thereof remain unpaid for more than thirty (30) days after they become delinquent, the Owner's and/or Occupant's right to use the Association Property, including all driveways and roadways located on the Association Property, shall be suspended and the Board of Directors shall provide the delinquent Owner or Occupant written notice of the Association's intent to suspend the Owner or Occupant's right to bring or park vehicles on the Association Property or have guests bring or park vehicles on the Association Property. **The written notice shall be sent by certified mail not less than ten (10) days prior to the date of suspension.** If the Owner does not pay the past due assessments or other charges within ten (10) days of the date of such written notice, then all parking privileges of the

Owner or Occupant, as well as all guests of the Owner or Occupant, shall be suspended until all past due assessments and other amounts are paid in full, and all vehicles of the Owner or Occupant, as well as the guests of the Owner or Occupant, shall be deemed "unauthorized vehicles" at Wyndham.

1.2 These policies, rules and regulations shall not deny: (a) pedestrian ingress or egress to or from the Town Home; (b) ingress or egress by vehicles which are not parked or kept for any period of time on the Association Property; or (c) medical, fire, police or other clearly identified health, safety, service or emergency vehicle ingress or egress to or from the Town Home.

Towing or Immobilizing Vehicles

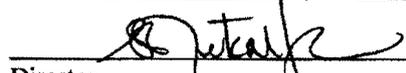
2.1 Unauthorized vehicles parked on any portion of the Association Property may be towed from the Association Property or booted. Before an unauthorized vehicle is towed or booted, the Board of Directors shall cause a notice to be placed on the unauthorized vehicle stating: (a) the nature of the violation is that parking for the vehicle has been suspended and that the vehicle is therefore unauthorized to park at Wyndham; (b) the name and telephone number of a person to contact regarding the violation; and (c) that the vehicle will be towed or booted after twenty-four (24) hours. If an unauthorized vehicle is not removed from the Wyndham community within twenty-four (24) hours after such notice is placed on the vehicle, the vehicle may be towed or booted without further notice. The Owner and/or Occupant shall be responsible for all cost associated with the towing or booting of an unauthorized vehicle from the Association Property. Thereafter, if that vehicle is subsequently parked on the Association Property while it remains an unauthorized vehicle, it may be towed without further notice.

2.2 If twenty-four (24) hours after such notice is placed on the vehicle the Owner or Occupant again becomes past due on any assessment or charge within six (6) months of such notice, the vehicle may be towed in accordance with the notice without further notice to the owner or user of the vehicle.

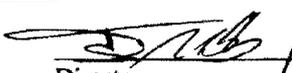
2.3 The Board of Directors shall cause, or has caused, a notice to be conspicuously placed on the Association Property stating the following: (a) unauthorized vehicles shall be towed and/or booted at the expense of the owner of the vehicle; (b) the name and telephone number of the person or entity which will do the towing and/or booting; and (c) information as to where the vehicle can be recovered and any other information that may be required by law.

This Resolution and the policies, rules and regulations contained herein shall be effective upon adoption by the Board of Directors and the mailing or delivering of a copy of this Resolution to the Owners at Wyndham.

RESOLVED AND ADOPTED by the Board of Directors of Wyndham Homeowners Association, Inc., this 11 day of August, 2008.



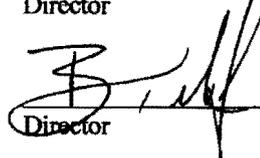
Director



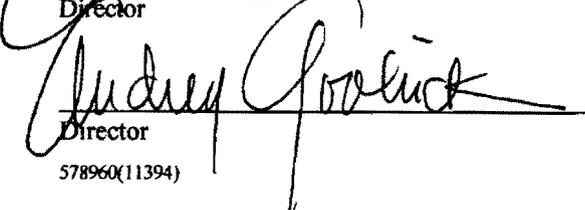
Director



Director



Director



Director

578960(11394)

**RESOLUTION OF THE BOARD OF DIRECTORS OF
WYNDHAM HOMEOWNERS ASSOCIATION, INC.**

SATELLITE DISHES

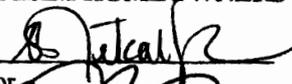
WHEREAS, pursuant to Article IX, Section 9.14 of the Declaration of Covenants, Easements and Restrictions for Wyndham ("Declaration"), the Board of Directors of the Wyndham Homeowners Association, Inc. ("Association") has the authority, without the consent of the members, to promulgate, modify, or delete use restrictions and rules and regulations applicable to the Town Homes and Association Property; and

WHEREAS, in response to regulations by the Federal Communications Commission ("FCC"), and to promote the health, safety and welfare of the residents of Wyndham, to maintain the appearance of the community, and for other purposes, the Board of Directors has determined it to be in the best interests of the Association to set forth this policy and regulation regarding direct broadcast satellite dishes or antennas and multi-channel multi-point distribution service dishes or antennas (all such dishes and antennas herein collectively called "Satellite Dishes") for Wyndham;

NOW, THEREFORE, the Board of Directors of the Wyndham Homeowners Association, Inc. hereby sets forth and adopts the Regulations Regarding Installation and Maintenance of Satellite Dishes attached hereto as Exhibit "A" and incorporated herein by reference, which shall govern and supersede any prior provisions of the Association's policies, rules or regulations which specifically conflict with the provisions hereof.

RESOLVED AND ADOPTED by the Board of Directors of the Wyndham Homeowners Association, Inc. this 11 day of August, 2008.

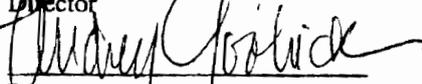
WYNDHAM HOMEOWNERS ASSOCIATION, INC.



Director



Director



Director



Director



Director

**RESOLUTION REGARDING SUSPENSION OF WATER SERVICE TO DELINQUENT
UNITS**

**BOARD OF DIRECTORS
WYNDHAM HOMEOWNERS ASSOCIATION, INC.**

WHEREAS, Article III, Section 2 of the Declaration of Covenants, Easements and Restrictions for Wyndham ("Declaration") and Article IV, Section 4.12(a) of the By-Laws of Wyndham Homeowners Association, Inc. ("By-Laws") grants the Board of Directors of the Wyndham Homeowners Association, Inc. ("Association") the authority to promulgate and enforce reasonable rules and regulations governing the use of the Association Property, including providing water service and parking vehicles on the Association Property; and

WHEREAS, the common area water pipes, and the streets and driveways in the Wyndham community are privately owned by the Association and are Association Property; and

WHEREAS, Article III, Section 2 of the Declaration and Article IV, Section 4.12(b) of the By-Laws grants the Association the authority to suspend the right to use the Association Property during any period which any assessment becomes delinquent and remains unpaid; and

WHEREAS, Article XIII, Section 2(b) of the Declaration further grants the Association the authority to exercise the right of self help to remove any violation of the Declaration and rules and regulations promulgated by the Board of Directors; and

WHEREAS, prompt and timely payment and collection of assessments due from each Owner is essential for the proper operation of Wyndham; and

WHEREAS, repeated and excessive delinquencies in payment of assessments cause the Association to incur significant trouble and expense in pursuing collection of the delinquent assessments and creates an inequity by forcing others to subsidize the expenses related to maintaining, repairing and operating the Association Property;

NOW, THEREFORE, the Board of Directors of Wyndham Homeowners Association, Inc., hereby sets forth and adopts the following policies, rules and regulations regarding the suspension of parking and towing and/or booting of vehicles:

WHEREAS, Section 44-3-223 of the Georgia Property Owners Association Act states that if and to the extent provided in the Association's governing legal documents the Association shall be empowered to impose and assess fines and suspend temporarily voting rights and the right of use of certain of the common areas and services paid for as a common expenses in order to enforce such compliance.

NOW, THEREFORE, the Board of Directors of the Association hereby adopts the following Rule and policy regarding payment of assessments and suspension of utility services and water service paid for by the Association as a common expense.

**SUSPENSION OF COMMON WATER SERVICE AND UTILITY SERVICES
OF DELINQUENT OWNERS**

If any Owner is delinquent in the payment of assessments to the Association and if said assessments remain unpaid for a period of more than thirty (30) days after they become delinquent, then, in addition to all other rights provided by the Declaration, Bylaws and Georgia Property owners Association Act, the Association shall have the right to suspend the owner's and/or occupant's right to use of the Association's Property, including, but not limited to, water service.

Prior to suspending the water service, the Association shall send the delinquent owner or occupant written notice of its intention to do so, not less than 10 days prior to the date of such suspension.

In the event of such a suspension, the Association shall not be required to restore the water service until all amount owed to the Association by the owner (including all costs incurred by the Association in suspending and restoring such service) are paid in full. When such sums are paid in full, the Association shall make arrangements for the restoration of such water service. All costs incurred for any such water termination and restoration shall constitute an assessment and a lien against the unit.

This regulation shall become effective immediately upon publication hereof to the Association membership in the manner determined by the Board of Directors.

SO RESOLVED, this 13 day of April, 2009

**WYNDHAM HOMEOWNERS
ASSOCIATION, INC.**

By: [Signature] (Seal)
President

Attest: [Signature] (Seal)
Secretary

[Corporate Seal]

Wyndham

Declaration of Covenants, Easements and Restrictions

Section 1. Architectural Control Committee;	
Creation and Composition	16
Section 2. Purpose, Powers and Duties of the ACC	16
Section 3. Officers, Subcommittees and Compensation	16
Section 4. Operations of the ACC	17
Section 5. Design Standards	17
Section 6. Submission of Plans and Specifications	18
Section 7. Approval of Plans and Specifications	18
Section 8. Disapproval of Plans and Specifications	18
Section 9. Obligation to Act	18
Section 10. Inspection Rights	18
Section 11. Violations	19
Section 12. Certification of Compliance	19
Section 13. Fees	19
Section 14. Non-Discrimination by ACC	19
Section 15. Disclaimer as to ACC Approval	19
VII. Mortgagee Provisions	19
Section 1. Notices of Action	20
Section 2. No Priority	20
Section 3. Notice to Association	20
Section 4. Amendments by Board	20
Section 5. VA/HUD Approval	20
Section 6. Association Property	20
Section 7. Amendments	21
Section 8. Special FHLMC Provision	21
Section 9. Applicability of Article	22
Section 10. Failure of Mortgagee to Respond	22
VIII. Damage or Destruction of Town Homes	22
IX. Use Restrictions and Rules	22
Section 1. General	22
Section 2. Single-family Use	22
Section 3. Prohibited Activities	23
Section 4. Nuisances	23
Section 5. Animals	23
Section 6. Signs	23
Section 7. Window Air-Conditioners	23
Section 8. Subdivision of Town Homes	23
Section 9. Unightly or Unkempt Conditions	23
Section 10. Clotheslines, Garbage Cans, Woodpiles, etc	23
Section 11. Guns	23
Section 12. Solar Devices	23
Section 13. Pools	24
Section 14. Satellite Dishes	24
Section 15. Obstruction of Ingress and Egress	24
Section 16. Enforcement by Members	24
Section 17. Recreational, Commercial Vehicles, Boats, Trailers, Boat Trailers, Utility Trailers	24
Section 18. Occupants Bound	24
Section 19. Lighting	24
Section 20. Drainage	24
Section 21. Detached Structures	24
Section 22. Entry Features and Street Signs	24
Section 23. Basketball Hoops and Goals	24
X. Maintenance of Town Homes and Easement Areas	25
Section 1. Maintenance and Repair of Town Homes, Porticos, Stoops and Patios	25
Section 2. Maintenance of Easement Areas	25

DECLARATION OF COVENANTS AND RESTRICTIONS FOR WYNDHAM FULTON COUNTY, GEORGIA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made on this day of July in the year Two Thousand Three by Beazer Homes Corp., (hereinafter referred to as the "Declarant").

WHEREAS, SBK Development, LLC owns all of that certain real property located in Land Lots 757 and 828 of the 2nd District, Fulton County, Georgia, which real property is more particularly described on Exhibit "A", hereto attached and made a part hereof (the "Property"); and

WHEREAS, by the consent attached hereto as Exhibit "C", Owner's hereby consent to Beazer Homes Corp. as Declarant.

WHEREAS, the Declarant intends to develop, the Property, for residential purposes by the construction thereon of single family Town Homes; and

WHEREAS, the Declarant desires to provide open spaces, parks, green belts and other facilities for the benefit of the persons who shall reside in the aforesaid Town Homes; and

WHEREAS, in order to insure the enjoyment of such open spaces, parks, green belts and other facilities by the residents of the said Town Homes, and in order to protect and enhance the value of the said Town Homes, it is desirable to create an association to own, maintain and administer such open spaces, parks, green belts and other facilities, and to administer and enforce the covenants and restrictions imposed by this Declaration on the said Town Homes, and to collect, hold and disburse the charges and assessments provided for in this Declaration; and

WHEREAS, it is intended that every owner of any of the said Town Homes automatically, and by reason of such ownership and this Declaration, become a member of the aforesaid association and be subject to its valid rules and regulations and the assessments and charges made by such association;

NOW, THEREFORE, the Declarant does hereby submit the "Town Homes" and the "Association Property" (as those terms are hereinafter defined) to the provisions of this Declaration.

ARTICLE I. DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article I, such definitions being cumulative of those set forth elsewhere in this Declaration.

"Assessment" shall have the meaning specified in Section 4 of Article V hereof, and shall constitute the monthly, annual, and special assessments which, pursuant to the provisions of Article V hereof, shall be levied by the Association against the Town Homes for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in Section 4 of Article V hereof).

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

"Association" shall mean Wyndham Homeowners Association, Inc., a Georgia non-profit membership corporation.

"Association Property" shall mean all real property which is shown and depicted on any Plat which is neither included with any Town Home nor dedicated to a governmental authority. Association Property shall also include the easement rights identified in Article III, Section 3 of this Declaration. As portions of the Property are subjected to this Declaration, all of the realty

(a) Each Town Home shall be subject to all easements which are shown and depicted on the Plat as affecting and burdening such Town Home;

(b) Each Town Home shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go in and upon such Town Home under the circumstances, and for the purposes, described in Article XIV of this Declaration.

ARTICLE III.
ASSOCIATION PROPERTY

Section 1. Association Property. The Declarant shall have the right to transfer and convey to the Association any portion of the Property. All portions of the Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Association Property. Said right may be exercised by the Declarant any time, and from time to time, prior to June 1, 2010.

All portions of the Property which shall be transferred to the Association by the Declarant (a) shall be conveyed to the Association by limited warranty deed free of debt encumbrance, and (b) shall be conveyed to the Association subject to the rights and easements set forth in Sections 2 and 3 of this Article III, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements.

The Association does hereby covenant and agree to accept all conveyances of the Association Property which may be made to it pursuant to, and in accordance with, the terms and provisions of this Section 1.

Section 2. Members' Rights in Association Property. Every owner of any Town Home shall have a non-exclusive right and easement of enjoyment and use in and to all portions of the Association Property, except for Easement Areas, Porticos, Stoops and Patios (which shall be subject to an easement for the exclusive use of the owner of the Town Home to which the same are attached or annexed, as provided for elsewhere in this Declaration), and such right and easement shall be appurtenant to, and shall pass with, the title to the Town Home(s) owned by such owner. Such right and easement of enjoyment and use are and shall be subject to the easements which are described in Section 3 of this Article III, to all other provisions of this Declaration relating to the use of the Association Property, and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Association Property, and to the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the owner of any Town Home during any period in which any assessment which is due to the Association from such owner remains unpaid, and such period as the Board of Directors may consider appropriate for any infraction of its published rules and regulations.

Section 3. Easements Over Association Property. All Association Property shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) An easement across, in, under, over and through the Association Property for the purposes of the construction, installation, repair, maintenance and use of all utility and drainage lines, wires, pipes and similar facilities as may be reasonably necessary for the provision of utility services (including, water, sewer, gas, electric and telephone services) to the Town Homes;

(b) An easement in favor of Declarant for the exclusive use of such portions of the Association Property as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Town Home, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of Town Homes, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate at such time as the construction of the Town Home has been completed and all of the Town Homes shall have been conveyed to owners thereof who shall not have acquired the Town Homes for the purpose of immediate resale of the same. Such easements shall and do exist

Section 9. Temporary Structures. Subject to the right of the Declarant to promote the sale of Town Homes, no structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other building, shall be permitted on any part of the Association Property at any time, whether temporarily or permanently, except with the prior written consent of the Board of Directors.

ARTICLE IV. THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the Clerk of the Superior Court of Fulton County, Georgia, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the ownership, management and operation of the Association Property, the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as the Board of Directors shall deem to be in the best interests of the members of the Association.

Section 2. Membership. Every person who is, or who becomes, a record owner of a fee or undivided fee interest in any Town Home is and shall be a member of the Association; provided, however, that any such person who holds such interest merely as security for the performance of an obligation shall not be a member of the Association. The transfer of ownership of a fee or undivided fee interest in any Town Home shall automatically transfer membership in the Association, and in no event shall such membership be severed from the ownership of such Town Home.

Section 3. Classes of Membership; Voting Rights. The Association shall have two classes of voting membership: Class A and Class B.

(a) **Class A.** The Class A members shall be all those persons holding an interest required for membership in the Association, as specified in Sections 2 and 3 of this Article IV, except for those persons who are Class B members. Until such time as the Class A members shall be entitled to full voting privileges, as hereinafter specified, the Class A membership shall be entitled to vote only in regard to the following matters: (a) any proposal of merger, consolidation or dissolution of the Association; (b) any proposal to transfer or encumber any portion of the Association Property; (c) any proposal pursuant to Article XII of this Declaration to amend this Declaration; (d) any proposal to modify or amend The Articles of Incorporation or the Bylaws and (e) any other matter for which it is herein specifically provided, or for which it is provided by law, that approval of each and every class of membership of the Association is required. Except in regard to the foregoing matters, the Class A membership shall be a non-voting membership until such time as the Class B membership shall terminate, at which time the Class A membership shall be the sole class of membership and shall be entitled to full voting privileges.

When entitled to vote, Class A members shall be entitled to cast one (1) vote for each Town Home in which they hold an interest required for membership by Section 2 of this Article IV.

(b) **Class B.** The Declarant shall be the sole Class B member and shall be entitled to three (3) votes for each Town Home owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). Class B membership shall be a full voting membership and, during its existence, the Class B member shall be entitled to vote on all matters and in all events. The Class B membership shall terminate and cease to exist, and the Class B member shall be and become a Class A member insofar as it may then hold any interest required for membership by Section 2 of this Article IV, upon the earliest to occur of: (1) the date on which the Declarant shall have conveyed to individual owners thereof seventy-five percent (75%) of the Town Homes, (ii) seven (7) years after the date this Declaration is recorded or (iii) on such earlier date as the Declarant shall designate in a written notice delivered to the Association.

From and after the date at which the Class B membership automatically terminates and

ceases to exist, such membership shall not be renewed or reinstated.

Section 4. Board of Directors. A Board of Directors shall manage the affairs of the Association. The number of directors and the method of election of directors shall be as set forth in the By-Laws of the Association.

Section 5. Suspension of Membership Rights. The Board of Directors may suspend the voting rights of any member of the Association, including the right to vote and to use the Association Property (except for the right to use the Association Property for access to and from the Town Home owned by such member), who (a) shall be subject to the Right of Abatement, as defined in Article XIII, Section 2 by reason of having failed to take reasonable steps to remedy a violation or breach of either the restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Article VII Section 11 or (b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article V hereof; or (c) shall be in violation of any of the rules or regulations of the Association relating to the operation or maintenance of the Association Property. Such suspension shall be for the balance of the period in which said member or person shall remain in violation, breach or default, as foreshad except that in the case of a violation described in subsection (d) of this Section 4, the suspension may be for a period not to exceed sixty (60) days after the sure or termination of such violation. No suspension shall interfere with an Owner's ingress to or egress from his Town Home. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the member's property in favor of the Association.

Section 6. Termination of Membership: Membership shall cease only when a person ceases to be an Owner.

Section 7. Meeting of the Membership. All matters concerning the meetings of members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in this Declaration, or in the Articles of Incorporation, or the Bylaws, or by law.

Section 8. Association Acts Through Its Board of Directors. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Board of Directors of the Association, unless it is specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the members of the Association must vote. No member of the Board of Directors of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B member) shall be personally liable to any owner of any Town Home for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 9. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of the Association, or any part thereof, and may enter into such agreements for the management of the Association Property as the Board of Directors deems to be in the best interests of the Association.

Section 10. Control by Declarant:

(a) Notwithstanding any other language or provisions to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the Association, Declarant hereby retains the right to appoint and remove all members of the Board of the Association, and all officers of the Association until the first of the following events shall occur: (i) the expiration of seven (7) years after the date of the recording of this Declaration; (ii) the date upon which seventy-five (75) percent of all of the Residences submitted or proposed to be submitted to this Declaration have been conveyed to Owners other than a person or persons constituting Declarant; or (iii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant.

costs and expenses being herein referred to as the 'Annual Expenses'). Without limiting the generality of the foregoing, the Expenses shall include the costs of: repair and maintenance of all Association Property which is to be maintained by the Association; payment of all governmental charges, taxes and assessments which shall be levied against all Association Property; payment of all costs and expenses incurred by the Association in connection with its operations; payment of the premiums for all policies of property and liability insurance maintained by the Association with respect to Association Property; payment of the premiums for all fidelity bonds which shall be obtained by the Association; the maintenance of reserves for the repair and replacement of improvements located on the Association Property and for such other purposes as the Board of Directors shall determine; the payment of the fees of such management firms as the Board of Directors shall employ; and payment of the fees for the provision of such professional services as the Board of Directors shall determine to be required by the Association, including legal, accounting and architectural services.

Section 5. Determination of Assessment and Shares Thereof. Prior to the commencement of each fiscal year of the Association (said fiscal year being specified in the Bylaws), the Board of Directors shall estimate the total amount of the Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Board of Directors shall thereupon adopt a budget for the Association's expenditures and reserve funding based upon such estimate and providing for the total assessment to be levied against the members of the Association for such fiscal year (the total assessment which shall be so determined and levied against all of the members of the Association for any fiscal year is herein referred to as the "Assessment"). The amounts so determined by the Board of Directors shall be levied against all of the members of the Association other than the Declarant and all Town Homes not owned by the Declarant. The amount of the Assessment that shall be levied against each Town Home shall be equal. The Board of Directors shall send a copy of the budget so adopted by it, together with a written notice of the amount of the Assessment so determined for such fiscal year and the amount of such Assessment which shall be levied against each Town Home, to the owner of every Town Home prior to the commencement of the fiscal year during which such Assessment is to be paid. The amount of such Assessment which shall be levied against each Town Home shall be due and payable to the Association in such installments as the Board of Directors shall determine, and after notice of the same shall have been given to all of the members of the Association by the Board of Directors, and shall be paid to the Association when due without further notice.

Section 6. Special Assessments. If for any reason, including non-payment of any assessments to the Association by the persons liable therefore, the budget adopted by the Board of Directors for any fiscal year shall prove to be inadequate to defray the Expenses for such fiscal year, or if the Board of Directors shall determine that it is in the best interests of the Association to levy a special assessment to pay the costs of any capital improvements or capital repairs, the Board of Directors shall have the authority to levy a special assessment against the Town Homes and the owners thereof (other than the Declarant) to raise such needed funds. Any special assessment levied by the Board of Directors pursuant to the provisions of this Section 6 shall be payable at such times and in such installments as the Board of Directors shall determine. Each Town Home not owned by the Declarant shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provisions of this Section 6.

Section 7. Town Homes Owned by Declarant. Notwithstanding any term or provision of this Declaration which may be construed to the contrary, no Town Home owned by the Declarant shall be subject to any assessment provided for in this Article VI. Rather, all Town Homes owned by the Declarant shall be exempt from the payment of all assessments for so long as such Town Homes are owned by the Declarant. At such time as any Town Home which is owned by the Declarant shall be conveyed or transferred away by the Declarant, all liens and assessments provided for in this Article VI shall become immediately levied against such Town Home and the owner of such Town Home shall immediately become liable for the payment of all such assessments. The amount of each Assessment which shall become so payable with respect to any Town Home shall be prorated according to the respective portions of the fiscal year that such Town Home was owned by the Declarant and by such successor owner.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association.

specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association, as provided herein:

- (a) Expenses of the Association which benefit less than all of the Town Homes, which may be specifically assessed equitably all of the Town Homes which are benefited according to the benefit received;
- (b) Expenses incurred by the Association pursuant to Article X hereof; and
- (c) Reasonable fines as may be imposed in accordance with the terms of this Declaration and By-Laws.

**ARTICLE VI
ARCHITECTURAL CONTROL**

Section 1. Architectural Control Committee Creation and Composition:

(a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than three (3) or more than five (5) individuals, provided, however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, but not the obligation, to appoint all members of the ACC until the plans for all of the Town-Homes in the Development have been approved by the ACC. Thereafter, the Board shall appoint the members of the ACC. All costs of operating the ACC, may, at the discretion of Declarant, be borne by the Association.

(b) Each initial member of the ACC shall be appointed for a term expiring on December 31, 2003. Thereafter, each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall, subject to the provisions of Section 1(a), be filled by the Declarant (or the Board if at the time the Board has the right to appoint members of the ACC) at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant while the Declarant has power to appoint members of the ACC pursuant to the provisions of Section 1(a) hereof (or by the Board if at the time the Board has the right to appoint members of the ACC).

Section 2. Purpose, Powers, and Duties of the ACC: The purpose of the ACC is to assure that any alteration of any Town Home, including, but not limited to the construction of a fence pursuant to Article X, Section 3, shall be submitted to the ACC for approval as to whether the proposed alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Development. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any alteration of any Town Home.

Section 3. Officers, Subcommittees, and Compensation: The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other reasonable out-of-pocket costs incurred in the performance of their duties as members of the ACC.

Section 4. Operations of the ACC:

(a) **Meetings:** The ACC shall hold regular meetings at least once every six (6) months or more often as may be established by the ACC. Special meetings may be called by the Chairman at any time, and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at

the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Members of the Association and by the Secretary of the Association. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities:

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5 hereof and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or to appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

Section 5. Design Standards:

(a) The ACC shall from time to time adopt, promulgate, amend, revoke, and enforce guidelines (the "Design Standards") for the purposes of:

- (i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;
- (ii) governing the procedures for such submission of plans and specifications;
- (iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, and all other matters that require approval by the ACC pursuant to this Declaration; and
- (iv) assuring the conformity and harmony of external design and general quality of the Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to Owners and prospective Owners and to all applicants seeking the ACC's approval.

Section 6. Submission of Plans and Specifications. No alteration to a Town Home is permitted which materially changes the exterior appearance of the Town Home, unless plans and specifications therefore shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards. Submissions shall include, without being limited to:

- (a) specifications of materials, color scheme, and other details affecting the exterior appearance of the Town Homes.
- (b) a landscape plan indicating all proposed changes to the existing landscape, including changes in grade, changes to existing landscaping, proposed landscaping, site lighting, and drainage.
- (c) specifications of materials and the proposed location of a fence.

Section 7. Approval of Plans and Specifications: Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, one (1) copy of such plans and specifications, as approved, shall be deposited for permanent record with the ACC, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Town Home of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Town Home. Approval of any such plans and specifications relating to any Town Home, however, shall be final as to that Town Home, and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and all conditions attached to any such approval.

Section 8. Disapproval of Plans and Specifications: The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

- (a) the failure to include information in such plans and specifications as may have been reasonably requested;
- (b) the failure of such plans or specifications to comply with this Declaration or the Design Standards; or
- (c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards for the Development as set forth in the Design Standards or the Development-Wide Standard, or (ii) as to location to be incompatible with topography, finished ground elevation, or surrounding Structures. In any case in which the ACC shall disapprove any plans or specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

Section 9. Obligation to Act: The ACC shall take action on any plans and specifications submitted as herein provided within fourteen (14) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the ACC to take action within fourteen (14) days after receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

Section 10. Inspection Rights: Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times, enter upon any Town Home thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of the Town Home or the use of any Town Home is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

Section 11. Violations: If any alteration is made to an existing Town Home, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association, and the Board shall take appropriate measures to correct the violation; the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Article XIII hereof.

Section 12. Certification of Compliance:

(a) Upon completion of the alteration to the Town Home in accordance with plans and specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such alteration, and stating that the plans and specifications have been approved and that such alteration complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or lender in good faith and for value or title insurer, such Certificate shall be conclusive evidence that all alterations on the Town Home comply with all of the requirements of this Article; provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction or workmanship of the alteration, or to represent or warrant to anyone the quality, function or operation of the alteration or of any construction, workmanship, engineering, materials or equipment.

The issuance of the Certificate shall in no way be construed to certify to any party that the alterations have been completed in accordance with any applicable rule or regulation or in accordance with every detail on the approved plans and specifications.

Section 13. Fees: The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and specifications and of inspections performed pursuant to Section 10. The fee shall be established from time to time by the ACC and published in the Design Standard.

Section 14. Non-Discrimination by ACC: The ACC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.

Section 15. Disclaimer as to ACC Approval: Plans and specifications are not reviewed for engineering, structural design, structural integrity, quality of materials, or compliance with any local, state, or federal laws, including local building codes and zoning ordinances, and by approving such plans and specifications neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any Town Home alteration constructed from such plans and specifications. Neither Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions, by reason of mistake in judgment, negligence, or non-feasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans and specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them, to recover any such damages and hereby releases, remises, quitclaims, and covenants not to sue all such persons and entities for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or non-feasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

ARTICLE VII MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Town Homes in the Development. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder insurer, or guarantor of a first Mortgage, who provides written request to the Association, such request to state the name and address of such holder, insurer, or guarantor and the Town Home number (therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Town Home on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Town Home subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the

performance by an Owner of a Town Home of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of a specified percentage of Mortgage Holders;

(e) an annual financial statement, or audit if available, of the Association for the immediately preceding fiscal year, free of charge;

(f) any proposed amendment of the Declaration effecting a change in (A) the boundaries of any Town Home or the exclusive easement rights appertaining thereto; (B) the interests in the Association Property or the liability for common expenses appertaining thereto; (C) the number of votes in the Association appertaining to any Town Home; or (D) the purposes to which any Town Home or Association Property are restricted; or

(g) any proposed termination of administration of the Association Property pursuant to this Declaration;

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Town Home in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Association Property.

Section 3. Notice to Association. Upon request, each Town Home owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Town Home.

Section 4. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development ("HUD.") or the Veterans Administration ("VA") subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, with out approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 5. VA/HUD Approval. As long as there is a Class B Membership and so long as the project is approved by HUD for insuring any Mortgage in the Development (as determined by consulting the current list of approved subdivisions regularly published by HUD and furnished to Mortgage companies) or the VA for guaranteeing any Mortgage in the Development (as determined by telephone inquiry to VA), the following actions shall require the prior approval of the VA and/or HUD as applicable: annexation of additional property to the Development except for annexation by Declarant in accordance with Article II pursuant to a plan of annexation previously approved by VA or HUD; dedication of Association Property to any public entity; mergers and consolidations; dissolution of the Association; mortgaging of Association Property; and material amendment of the Declaration, Bylaws, or Articles of Incorporation.

Section 6 Association Property. To the extent permissible under the law of the state of Georgia, the following provisions shall apply:

(a) Any restoration or repair of the Association Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the Eligible Holders of first mortgages on Town Homes to which at least fifty-one (51%) percent of the votes of Town Homes subject to mortgages held by such Eligible Holders are allocated, is obtained.

(b) Any Election to terminate the administration of the Association Property pursuant to this Declaration after substantial destruction or a substantial taking in condemnation of the Property must require the approval of the Eligible Holders of first mortgages on Town Homes to which at least fifty-one (51%) percent of the votes of Town Homes subject to mortgages held by Eligible Holders are allocated.

Section 7. Amendments. The following provisions do not apply to amendments to the constituent documents or termination of the Association pursuant to Section 6 hereof made as a result of destruction, damage, or condemnation, or to the addition of land pursuant to any plan of expansion or phased development previously approved by HUD or the VA to the extent such approval is required by HUD or VA:

sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Town Home.

Section 5. Animals. No Town Home shall be used for the keeping or breeding of livestock, animals or poultry of any kind, except that a reasonable number of household pets may be kept, provided that they are neither kept for breeding nor maintained for any commercial purpose, and provided that none of such pets are permitted to be a source of annoyance to any other resident or residents of any other Town Home. No known vicious animal shall be kept in any Town Home. All pets shall, at all times whenever they are outside of a Town Home, be confined on a leash. Owners shall be immediately responsible for the proper clean up and disposal of all waste created by their animals.

Section 6. Signs. No sign of any kind or character shall be erected or displayed to the public on any portion of any Town Home without the prior written consent of the Board of Directors, except for customary name and address signs and one "for sale" sign advertising a Town Home for sale. The restriction herein stated shall include the prohibition of placement of any sign within any Town Home in a location from which the same shall be visible from the outside.

Section 7. Window Air-Conditioners. No air-conditioner shall be installed in any window of any Town Home, nor shall any air-conditioner be installed on any Town Home so that the same protrudes through any exterior wall of such Town Home.

Section 8. Subdivision of Town Homes. No Town Home may be further subdivided into any smaller Town Home.

Section 9. Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Development.

Section 10. Clotheslines, Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Town Homes, streets and property located adjacent to the Town Home. All rubbish, trash and garbage shall regularly be removed from the Portico, Town Home, Patio and Easement Area and shall not be allowed to accumulate thereon. Declarant, however, expressly reserves the right to dump and bury rocks on the property within the Development as needed for efficient construction and to allow developers and builders within the Development to do so. No organic material shall be buried anywhere in the Development. No clothesline shall be permitted on any Portico, Town Home, Patio or Easement Area.

Section 11. Guns. The use of firearms in the Development is prohibited. The term "firearms" includes "B-B guns, pellet guns, and firearms of all types.

Section 12. Solar Devices. No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Town Home, including the Portico, Patio, or Easement Area, without the prior written consent of the Architectural Committee.

Section 13. Pools. Pools, of any sort whatsoever, other than a pool, if any, built as a part of the amenities package for the entire Development, shall not be permitted on the Development.

Section 14. Satellite Dishes. No satellite dishes or antennas are permitted except satellite dishes less than twenty-one (21") inches in diameter and shall be located only on that portion of the Town Home which is least visible from public view and shielded so as to minimize any risks and to ensure a nuisance is not created.

Section 15. Obstruction of Ingress and Egress. No owner, tenant, or guest shall obstruct the rights of ingress and egress to any residence.

Section 16. Enforcement by Members. In the event that the owner of any Town Home, or

any person who is entitled to occupy any Town Home, shall fail to comply with or abide by any restriction set forth in either this Article IX, or in Article VI, Section 1 of this Declaration, then the owner of any other Town Home who is aggrieved by such failure of compliance or abidance shall have the right to proceed at law or in equity to compel such owner or such occupant to comply therewith and abide thereby. Additionally, any owner of any Town Home who, or whose lessee, shall fail to comply with or abide by any such restriction shall be liable for any damages as may be suffered by any other owner of any Town Home as a consequence of such failure.

Section 17. Recreational Vehicles, Commercial Vehicles, Boats, Trailers, Boat Trailers, Utility Trailers. No trailer, recreational vehicle, commercial vehicle, boat, boat trailer, trailer house, or utility trailer shall be parked at any Town Home.

Section 18. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide sanctions against Owners shall also apply to all Occupants of any Town Home even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine shall then be levied against the Owner.

Section 19. Lighting. Notwithstanding Article VI, above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Architectural Committee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yard of the Town Home; providing does not create a nuisance for the adjoining Town Homes; (c) illumination of model Town Homes and entrance features constructed by the Declarant. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI.

Section 20. Drainage. Catch basin and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Town Home may obstruct or re-channel the drainage flows after the location and installation of drainage swales, storm sewers, or storm drains. Declarant reserves the right to prepare sloping banks, cuts, or fills on all streets and roads. Declarant hereby reserves a perpetual easement across all Association Property and Basement Areas for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 21. Detached Structures. No detached structures shall be placed, erected, allowed or maintained upon any Association Property or Easement Area without the prior written consent of the ACC.

Section 22. Entry Features and Street Signs. Owners shall not alter, remove or add improvements to any entry features or street signs constructed by the Declarant on any Lot or Town Home, or any part of an easement area associated therewith without the prior written consent of the ACC.

Section 23. Basketball Hoops and Goals. Basketball hoops and goals shall not be attached to the exterior portion of any Town Home, garage or other building structure constructed on a Lot or Town Home.

ARTICLE X.

MAINTENANCE OF TOWN HOMES AND EASEMENT AREAS

Section 1. Maintenance and Repair of Town Homes, Porticos, Stoops and Patios. The owner of each Town Home shall be obligated to maintain and repair the entirety of his Town Home, including all walls and the roof of such Town Home. The owner of each Town Home shall also be obligated to maintain and repair the Stoop and any Portico which is attached to his Town Home, and the Patio which is annexed to his Town Home, including all brick, stucco and concrete portions of the same. Such maintenance and repair work shall be performed at the sole cost and expense of the owner of such Town Home. All exteriors of all Town Homes and all Stoops and Porticos shall be maintained in a condition which is satisfactory to the Board of

Directors. In no event shall any change be made in the exterior appearance of any Town Home, (including, without limitation, painting and the application of any brick, stucco, paneling or other siding), unless such change has been first approved in writing by the ACC. The Board of Directors shall have the right to adopt rules for the placement of any items on the Porticos, Stoops and Patios and all items placed on the Stoops and Patios must comply with the terms of such rules.

Section 2. Maintenance of Easement Areas.

(a) Except as provided otherwise in paragraph (b) hereof, the Association shall be responsible for maintaining the grass and the grounds of the portion of each Easement Area which is not located inside a fence. Such maintenance shall consist of normal grass mowing and any other activity necessary to keep such grounds in a condition that is satisfactory to the Board of Directors.

(b) The owner of the Town Home to which each Easement Area is annexed shall be obligated to maintain any trees, flowers, shrubbery or bushes as shall have been placed in the Easement Area pursuant to the exercise of the easement rights set forth in Section 6 of Article III of this Declaration in a condition which is satisfactory to the Board or Directors. Such maintenance shall include, without limitation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes, ivy and other foliage.

(c) The owner of the Town Home to which each Easement Area is annexed shall be obligated to keep and maintain any portion of the Easement Area which is enclosed within a fence erected in accordance with Section 3 of this Article X in a neat, sanitary and attractive condition which is satisfactory to the Board of Directors. Such maintenance shall include, without limitation, cutting the grass, weeds and other vegetation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes, grass, ivy and other foliage as may be planted in and on the Easement Area pursuant to the exercise of the easement rights set forth in Section 7 of Article III of this Declaration.

Section 3. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Development without the prior written consent of the ACC, pursuant to Article VI. If approved by the ACC, fences shall only be built on the portion of the Easement Area immediately annexed to the Town Home as shown on the final plat of survey. No such fence may be erected outside the Easement Area that is annexed to such Town Home. The ACC shall have the right to determine the exact location of all fences to insure uniform placement. It shall be the duty of the ACC to maintain in effect a standardized design for the fence that may be so erected upon the Association Property. In no event shall any fence be erected pursuant to the provisions of this Section 3 unless the design of such fence shall conform to the standardized design which shall be so approved by the ACC prior to construction pursuant to Article VI of this Declaration.

Any such fence that shall be so erected shall contain a gate providing access into said Easement Area and shall not contain any lock or locking device. In no event shall the owner of any Town Home lock or otherwise secure said gate in such a way that it cannot be opened to permit access into said Easement Area.

In the event that the owner of any Town Home shall elect to erect any such fence pursuant to the provisions of this Section 3, the owner of the Town Home to which such fence is annexed shall be responsible for the repair, maintenance and replacement of such fence and the area enclosed thereby.

Section 4. Failure of Maintenance. In the event that the owner of any Town Home shall fail to maintain any portion of such Town Home, or the Stoop or any Portico that is attached to such Town Home, or the Patio that is annexed to the same, or any Easement Area that is annexed to the same (including any fence that may have been erected in such Easement Area), all as required under the terms and provisions of this Article X, the Board of Directors shall have the right, exercisable by it or through its agents or employees, and after giving the owner of such Town Home at least five (5) days notice and an opportunity to correct the unsatisfactory

condition, to enter upon the Town Home, Portico, Stoop, Patio and/or Easement Area, as applicable, and correct the unsatisfactory condition. The owner of the Town Home upon which, or upon the Portico, Stoop, Patio or Easement Area attached or annexed to which, such maintenance work is performed by the Association (or its agents or employees) shall be personally liable to the Association for all direct and indirect costs as may be incurred by the Association in connection with the performance of such maintenance work, and the liability for such costs shall be secured by all of the liens, and shall be subject to the same means of collection, as are the assessments and charges provided for in Article V of this Declaration. In addition, all such costs shall be paid to the Association by such owner at the same time as the next due annual assessment payment, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Board of Directors shall determine.

ARTICLE XI.
INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to obtain insurance for all insurable improvements located on the Association Property or property required to be maintained by the Association under Article III, Section 8 hereof, including coverage for (i) loss or damage by fire or other hazards, including extended coverage, 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, and (ii) comprehensive general liability insurance covering all of the Association Property. The Board shall also have the authority to obtain director's and officer's liability insurance, said insurance to cover the members and officers of the Board of Directors; and the members of the Architectural Committee as duly appointed under the provisions of Article VI, insuring the same against any negligence or nonfeasance. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of Association, as trustee, for the respective benefited parties. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company authorized to do business in Georgia.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors 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.
- (d) 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 Development is located.

Section 2. Damage and Destruction -- Town Homes. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Portico, Town Home, Patio or Easement Area shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XIII of this Declaration.

Section 3. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

Section 4. Additional Insurance. In addition to coverage described hereinabove, the Association shall obtain such additional amounts and types of insurance as may be required from time to time by either the Veterans Administration or the Federal Housing Administration, their successors and assigns, for similar type residential subdivision communities.

The Association shall have the authority to obtain and maintain a blanket fidelity bond for all officers, directors, and employees of the Association and all other persons who handle, or are responsible for, funds of or administered by the Association. If the Association engages a management agent who has responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or administering the funds of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the management agent at any time during the period of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Town Homes plus reserve funds. The bonds shall contain waivers by the issuer of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior notice to the Association.

Section 5. Town Homes. The owner of each Town Home shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of such Town Home, and the Stoop, Patio and any Portico which is annexed to such Town Home, on a replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value, based upon replacement cost, of the same.

ARTICLE XII AMENDMENT

Section 1. Amendment by Association. The terms, provisions, covenants and restrictions of this Declaration may be amended upon the approval of such amendment by: (a) those members of the Association who own, in the aggregate, no fewer than sixty-seven percent (67%) of the Town Homes not owned by the Declarant; (b) the Declarant, if the Declarant shall then own any Town Homes or any other portion of the Property; and (c) HUD and VA, if the Class B membership has not terminated, as provided in Article IV, Section 3 of this Declaration. The approval of any such amendment by each of the Class A members shall be given by such Class A member either casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such Class A member signing a written approval of such amendment after the date on which such meeting was held, notwithstanding anything set forth to the contrary in the Articles of Incorporation or Bylaws. If any such amendment is required to be approved by the Declarant and/or by HUD and VA, such approval shall be given only by such Person executing a written approval of the same.

Any amendment to the terms, provisions, covenants or restrictions of this Declaration shall become effective only upon the recording in the Deed Records of Fulton County, Georgia, of an instrument certified by the incumbent Secretary of the Association: (a) setting forth such amendment; (b) stating that the approval of the Class A members of the Association which, under the provisions of this Article XII, is required for such amendment to be effective, has been given and obtained; and (c) containing the written approval of the Declarant and/or HUD and VA, if the same is required (as hereinafter provided).

The matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate.

Each person who shall own any Town Home, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, and each holder of a Mortgage upon any portion of any Town Home, by acceptance of such Mortgage, thereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided in this Article XII.

Section 2. Amendments by Declarant: During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing, filed and recorded in the Deed records of the Superior Court of Fulton County, Georgia, without the approval of any Member or mortgagee, provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Town Home or of the Association Property as set forth in this Declaration or if such amendment adversely affects the title to any Town Home, such

Section 4. Collection of Assessments and Enforcement of Lien:

(a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Town Home or Town Homes subject to the lien or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorney's fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, costs or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Town Home or Town Homes subject to the lien at auction, at the usual place for conducting sales at the Courthouse in Fulton County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four (4) weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for Fulton County, Georgia, are published, all other notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and its assigns, the agent and attorney-in-fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or its assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, legal representatives, devisees, successors, and assigns of such Owner, and that the conveyance to be made by the Association or its assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Town Home or Town Homes, and the Association or its assigns shall collect the proceeds of such sale, and after reserving there from the entire amount of assessment, interest, cost, and other charge due, together with all costs and expenses of sale and fifteen (15%) percent of the aggregate amount due for attorney's fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law and any mortgagee of said Town Home or Town Homes. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Town Home. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law or ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

Section 5. Arbitration. Any controversy or claim arising out of the enforcement of the provisions of this Declaration shall be settled as expeditiously as possible by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and the judgment upon the award rendered by the arbitrator may be entered into any court having jurisdiction thereof. This provision in no way limits the lien rights and rights of abatement stated above.

**ARTICLE XIV.
EASEMENTS**

Section 1. Easements for Utilities. There is hereby reserved to the Declarant its successors and assigns, for so long as the Declarant owns any Lot or Town Home, and to the Association, blanket easements upon, across, above and under all Association Property, Easement Areas and Town Homes for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the Association Property, Easement Areas or Town Homes or any portion thereof, including, but not limited to gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant or the Association might decide to have installed to serve the town Homes; and for slope control purposes, replanting, and maintenance of all entry features and retention ponds. It shall be expressly permissible for the Declarant, the Association or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment related to the

providing of such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 2. Easement for Association Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of the Association Property, Easement Areas and Town Homes determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article X. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the Owner's Town Home, reasonable steps shall be taken to protect such Town Homes, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 3. Easement for Entry. In addition to the right of the board to exercise self-help as provided in Article XIII, hereof, the board shall have the right, but shall not be obligated, to enter upon any Easement Area or Town Home for emergency, security and safety reasons, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner and the entering party shall include the right of the Board to enter to cure any condition which may increase the possibility of fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 4. Easements for Entry Features and Street Signs. There is hereby reserved to the Declarant and the Association an easement over and upon each Town Home, Easement Area and Association Property for ingress, egress, installation, construction, landscaping and maintenance of entry features and street signs for the Development. The easement right and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to upgrade the land under and around the entry features.

ARTICLE XV. MISCELLANEOUS

Section 1. Failure of Enforcement. In the event that the Association shall fail to enforce the compliance with any of the provisions of this Declaration by the owner of any Town Homes, then the owner of any other Town Homes shall have the right to file an action in the Superior Court of Fulton County, Georgia for an order from such Court requiring that the Association enforce such compliance; provided, however, in no event shall the Board of Directors, or any officer of the Association, or any of their agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. Waivers. In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions or agreements set forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

Section 3. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 4. Notices. Any notice required to be sent to any member of the Association pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the member to whom it is intended, at the address which such member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the

particular case would not be inconsistent with the overall scheme of development for the Development.

Section 11. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation the foreclosure of liens, (b) the imposition and collection of assessments as provided in Article V hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 12. Implied Rights. The Association may exercise any rights or privilege given to it expressly by this Declaration, the Bylaws, 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.

Signatures on page 34

IN WITNESS WHEREOF, Beazer Homes Corp. has caused this Declaration to be executed by its duly authorized officer on the day and year first above written.

Michelle Glyn
WITNESS

[Signature] (SEAL)
BEAZER HOMES CORP.
By: GRANT GAMES
Its: VP - LAND DEVELOPMENT

[Signature]
NOTARY PUBLIC

(Notary Seal)



EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 757 and 828 of the 2nd District, 2nd Section of Fulton County, Georgia, being more particularly described as follows:

BEGINNING at an iron pin found at the point of intersection of the southeasterly right-of-way of U.S. Highway 19 (80 foot right-of-way) with the west line of Land Lot 757; thence north 78 degrees 00 minutes 00 seconds east along said right-of-way 36.58 feet to a concrete monument; thence north 76 degrees 58 minutes 03 seconds east along said right-of-way 116.24 feet to an iron pin found; thence north 76 degrees 58 minutes 13 seconds east along said right-of-way 264.88 feet to an iron pin found; thence leaving the right-of-way of U.S. Highway 19 and running south 01 degree 27 minutes 40 seconds west 928.73 feet to an iron pin found; thence south 87 degrees 52 minutes 40 seconds east 563.83 feet to an iron pin found; thence south 01 degree 42 minutes 35 seconds west 904.52 feet to an iron pin found; thence south 88 degrees 42 minutes 42 seconds east 402.00 feet to an iron pin found on the east line of Land Lot 828; thence south 01 degree 21 minutes 31 seconds west along the line dividing Land Lots 828 and 829 a distance of 256.50 feet to an iron pin found at the southeast corner of Land Lot 828; thence north 88 degrees 42 minutes 42 seconds west along the line dividing Land Lots 828 and 829 a distance of 862.85 feet to an iron pin found; thence north 88 degrees 42 minutes 00 seconds west along said Land Lot line 487.83 feet to an iron pin found at the southwest corner of Land Lot 828; thence north 00 degrees 46 minutes 45 seconds east along the line dividing Land Lots 827 and 828 a distance of 1276.30 feet to an iron pin found at the northwest corner of Land Lot 828; thence north 01 degree 25 minutes 00 seconds east along the Land Lot line dividing Land Lots 757 and 758 a distance of 718.85 feet to an iron pin found on the southeasterly right-of-way of U.S. Highway 19 marking the TRUE POINT OF BEGINNING.

The foregoing property is described in accordance with a survey for James D. Parker prepared by David W. Healle, Georgia Registered Land Surveyor No. 1872, dated May 29, 1986. Said parcel contains 36.16 acres, according to said survey.

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RESOLUTION OF THE BOARD OF DIRECTORS OF
WYNDHAM HOMEOWNERS ASSOCIATION INC.
ESTABLISHING LEASING ADMINISTRATION RULE

This RESOLUTION is made and adopted to be effective as of the 27 day of July, 2021 (the "Effective Date") by the Board of Directors of Wyndham Homeowners Association Inc. (the "Association").

WITNESSETH

WHEREAS, the Board of Directors believes it to be in the best interest of the Association and its members to collect a leasing administration fee to cover the costs incurred by the Association in processing, keeping accurate and up to date records, and otherwise administering the leasing of Units within the Association;

WHEREAS, the Board of Directors believes it to be in the best interest of the Association and its members to collect and retain certain leasing-related documents, including but not limited to a signed occupancy affidavit, copies of lease agreements, Owner Occupant Information Forms, and Governing Document Acknowledgement Forms to be used in the administration of the leasing of Units within the Association;

NOW, THEREFORE, LET IT BE RESOLVED that the Association shall assess the Owner of a Unit who has been granted approved leasing status an annual leasing administration fee of One Hundred Eighty-Five and NO/100 Dollars (\$185.00) (the "Leasing Administration Fee"). The Leasing Administration Fee shall be due and payable on the date on which approved leasing status was granted and on each subsequent anniversary date thereof, for as long as such approved leasing status remains in effect.

The Leasing Administration Fee and prorated amount thereof shall constitute and shall be treated for all purposes as a specific assessment pursuant to Article IX Section 24 of the Declaration.

Any Unit Owner who is granted approved leasing status or who, as of the Effective Date, has been granted approved leasing status, shall provide to the Association's Managing Agent a copy of the lease agreement associated with their Unit, the leasing permit associated with their Unit, the Owner Occupant Information Form, and the Governing Document Acknowledgement Form for the tenant(s) living in their Unit.

The Association may, in addition to any other rights available under Georgia law, the Declaration and the Association bylaws, levy daily fines of Twenty Five and NO/100 Dollars (\$25.00) until such violation is cured upon any of the following events: (1) Unit Owner's failure to submit the occupancy affidavit, as requested, (2) Unit Owner's failure to lease his or her unit so as to comport with the requirements outlined in this Resolution and/or the Association's governing instruments, or (3) leasing of the unit by the Unit Owner without prior, written approved leasing by the Association. Failure to submit the occupancy affidavit will result in a *presumption* of leasing by the Unit Owner.

The Managing Agent is directed to distribute this resolution to all Members of the Association.

The foregoing Resolution was adopted and approved by the Board of Directors of the Association at a meeting held on July 27, 2021.



WYNDHAM HOMEOWNERS ASSOCIATION INC.
President

Title