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Page 241

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CATHELENE ROBINSON
Clerk of Superior Court
Fulton County, Georgia

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE ENCLAVE AT SADDLE CREEK
AMENDMENT 1**

Date: June 3, 2022

Change to Article IV, Section 6. Leases

In addition to the above referenced paragraph, the following rules will apply:

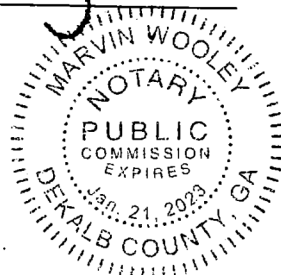
1. The total number of units allowed to be leased at any time is 10% of the total homes in the Enclave at Saddle Creek. Therefore, only two (2) homes may be leased at any given time though some overlap may occur with permission from the board.
2. Homeowners wanting to lease a unit, must request in writing along with a draft lease to the board ninety (90) days prior to the effective date of the first month's rent. The board may reject any request it deems not in the best interest of the community.
3. One (1) year is the minimum and maximum term of any lease. Renewals must be requested to the board by providing the draft lease 90 days prior to the effective date.
4. The board reserves the right to permit more than two (2) leased units due to homeowner hardship.
5. No real estate investment corporation will be granted approval to lease a unit.

END OF AMENDMENT 1

Marilyn L. Brown
Affiant Vice President, Board of Directors

Karen Jenkins
Witness

Marvin Wooley
Notary Public



AFTER RECORDING, RETURN TO:

Jeffrey A. Hurley, Esq.
Jeffrey A. Hurley, P.C.
P. O. Box 911
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GEORGIA, FULTON COUNTY
FILED AND RECORDED

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JUANITA HICKS
CLERK OF SUPERIOR COURT

STATE OF GEORGIA
COUNTY OF FULTON

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE ENCLAVE AT SADDLE CREEK**

This Declaration of Covenants, Conditions, and Restrictions for The Enclave at Saddle Creek is hereby made, promulgated and established, as follows:

WITNESSETH:

WHEREAS, T & L Construction Company, Inc. ("Developer") is the owner of certain real property located in Land Lots 401, 437, and 438 of the First District, 2nd Section of Fulton County, Georgia, within the City of Roswell, described in Exhibit "A" attached hereto, and desires to create thereon a planned community; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values in said community and to this end desires to subject the real property described in Exhibit "A" (attached hereto) to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, all for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient operation of, the preservation of the values, and the enhancement of quality of life in said community, to create an agency which may own certain real property, easements and rights of way; that may acquire and hold certain rights, and to assume and perform certain obligations as to and for the benefit of the community and its members, together with the rights, privileges and benefits appertaining thereto; to which may be delegated and assigned the powers of maintaining and administering the same, together with certain agreements related thereto; to administer and enforce these covenants, con-

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS DOES NOT ESTABLISH A CONDOMINIUM AS DEFINED AND GOVERNED BY THE GEORGIA CONDOMINIUM ACT, O.C.G.A. SECTION 44-3-70, ET SEQ. BUT THIS DECLARATION DOES SUBMIT THE DESCRIBED PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.

ditions and restrictions; to collect and disburse the assessments and charges hereinafter provided for to operate, maintain, insure and preserve certain land amenities and facilities of the community; and to promote the health, safety and welfare of the residents of the community; and

WHEREAS, The Enclave at Saddle Creek Homeowners Association, Inc., has been or will soon be incorporated under the laws of the State of Georgia as a non-profit corporation for the purpose of exercising the functions aforesaid; and

WHEREAS, the Developer desires that all of the property described in Exhibit "A" hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the real property and shall be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors, successors-in-title and assigns, and shall insure to the benefit of each owner thereof as set forth herein; and.

WHEREAS, Developer by the adoption, making and promulgation of this Declaration does affirmatively hereby elect to submit to the provisions of the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.*;

NOW, THEREFORE, all of the property submitted to this Declaration as described in Exhibit "A" thereto shall be governed by, held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the real property and shall be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors, successors-in-title and assigns, and shall insure to the benefit of each owner thereof as set forth herein.

ARTICLE I

DEFINITIONS

Section 1. "**Association**" shall mean and refer to the Enclave at Saddle Creek Homeowners Association, Inc., a Georgia non-profit corporation, its successors and assigns.

Section 2. "**Board**" means the Board of Directors of the Association.

Section 3. "**By-laws**" means the By-laws of the Association.

Section 4. "**Common Property**" shall mean all such real and personal property owned, leased, or utilized under any agreement for the use and benefit of all owners, which may include real property, easements, or rights of way and all structures and amenities constructed or installed thereon, hereafter conveyed or transferred by the Developer to the Association. Any conveyance or transfer of record title to property to the Association intended to be Common Property shall

occur no later than the closing of the sale of the last remaining Lot and improvements thereon to any person or entity intending to occupy the same for residential purposes in any phase of the Development or ninety (90) days following the final completion of all improvements on the property to be conveyed, whichever shall first occur.

Section 5. "**Developer**" shall mean and refer to T & L Construction Company, Inc. "**Developer**" shall also include (1) any lender who succeeds to the interest of Developer through foreclosure of any deed to secure debt or conveyance in lieu of foreclosure, (2) any successor, successor-in-title or assign of Developer if Developer delivers to such party or parties a written assignment of Developer's rights under this Declaration, provided, however, that there shall be only one Developer at any given time who can exercise the rights, privileges and benefits of the Developer as defined herein.

Section 6. "**Easements**" shall mean all easements in favor of the Association, other Owners, or the Developer, and burdening any of the Lots or for the benefit of all owners as to Common Property. Any easement which exists for the common benefit and enjoyment of all Owners in or over any Lot shall be conveyed to the Association no later than the termination of administration of the Association by the Developer as provided for in of this Declaration and the By-laws of the Association.

Section 7. "**First Mortgage Holder**" or "**First Mortgagee**" shall mean the holder of any first priority mortgage or deed to secure debt on any Lot.

Section 8. "**Lot**" shall mean any portion of the Property intended for individual ownership and use together with all improvements erected thereon, as such Lots are shown and depicted on the Plat filed in the Fulton County, Georgia, Records or any revisions thereof.

Section 9. "**Member**" shall mean a member of the Association as determined by this Declaration and the Association's By-laws.

Section 10. "**Membership**" means the collective total of all members of the Association.

Section 11. "**Mortgage**" shall refer to any mortgage, deed to secure debt, deed of trust or other transfer or conveyance of any interest in any Lot for the purpose of securing the performance of an obligation, including but not limited to a transfer or conveyance for such purpose of fee title.

Section 12. "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 13. "**Plat**" shall refer to that certain Final Plat for The Enclave at Saddle Creek prepared by Rodney H. Reese, Ga. R.L.S. No. 2072, of Brumbelow-Reese & Assoc., Inc., dated February 5, 1999, and recorded in Plat Book 205, Page 39 *et seq.*, Fulton County Records.

together with any amendments, supplements and revisions thereof which may hereafter be recorded in the aforesaid Records.

Section 14. "Property" or "Existing Property" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and made a part hereof by this reference, together with any other real property made subject to this Declaration as provided herein.

Section 15. "Unit" means a residential dwelling structure located on a Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property 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 and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property described in Exhibit "A", attached hereto and by reference made a part hereof.

ARTICLE III

EASEMENTS

Section 1. Easements for Utilities. There is hereby granted a blanket easement upon, across, through and under the Property or any portion thereof for replacement, repair, and maintenance of all utilities, including without limitation, water, sewer, gas, telephone, television cable, and electricity. By virtue of these easements, it is expressly permissible for the providing utility or service company to install and maintain facilities and conduits on, across, through and under said Lots, or any portions thereof, for the purposes stated. These easements shall in no way affect any other recorded easements on the Property and shall be solely for the repair, service, or replacement of existing utility services. After such repair, service or replacement, the Lots shall be restored to the condition existing prior to the entry at the expense of the party exercising such right of entry.

Section 2. Easement for or by the Association. There is hereby granted to the Association and its designated representatives and easement for access to each Lot for the purpose of exercising the maintenance responsibilities of the Association as to any Lot, any property of the Association, and for the performance of any obligation or the discharge or exercise of any right of the Association.

Section 3. Encroachments. All of the Property shall be subject to an easement for encroachments created by construction, settling or overhangs for all structures located thereon as designed, constructed or rebuilt. A valid easement for maintenance of the same shall exist for as long as such structures stand. In the event any structure is partially or totally destroyed, as easement upon adjacent property or Lots shall exist for the express purposes of repair and restoration of any such structure. Furthermore, in the event that any structure is partially or totally destroyed and then rebuilt, then the Owners of adjacent Lots agree that minor encroachments of any part of the rebuilt structure made during the reconstruction or repair thereof shall be permitted and shall exist. Each Lot shall be subject in addition to an easement and encroachment to permit any Owner to perform maintenance and repair upon his or her Lot and any structure located thereon.

Section 4. Drainage Easement. An easement is hereby reserved and granted as to each and every Lot for the purposes of drainage of surface water and the installation and maintenance of drainage mechanisms and facilities, whether on or under said Lot. The sole discretion for determination of the location of any easement or any such mechanisms and facilities shall be vested in the Board of Directors of the Association as it deems necessary or appropriate to provide adequate drainage as to the Property. The existence of any such easement shall not prevent the Owner of any Lot from exercising any otherwise permitted use of said Lot, provided that no use or activity conducted or permitted by any Owner on any Lot shall impair any such easement or impede, divert, prevent or alter the flow of surface water or drainage within any easement area.

Section 5. Developer's Retained Easements for Construction and Sales Activities. In connection with the development of the Property, Developer hereby reserves for itself, its successors and assigns, easements for the installation and maintenance of roads, water, sanitary sewer and storm drainage lines and electric and telephone lines. In utilizing such easements, Developer may cut any trees, bushes or shrubbery or make any soil gradings or excavations necessary to install such roads, water, sanitary sewer or storm drainage lines or such electrical and telephone lines, provided Developer restores the affected area to a condition as near as practical to its original condition. Developer further, for itself, its successors and assigns, reserves the right and easement to close or place obstructions within the Property and to place building materials, construction equipment and construction and sales offices and trailers temporarily on the Property in connection with the development and marketing of the Property; provided, however, that such construction and sales activities shall not be allowed to cut off all access to any Lot not then owned by Developer, except as may be necessary during normal working hours for the installation, repair or maintenance of any utilities or parking, driveway or road facilities. Developer shall also have an easement to place and maintain signs on the Property in connection with the development and marketing of the Property. Developer also reserves, for itself, its successors and assigns, an easement for pedestrian and vehicular ingress and egress across any and all streets and roads which now or hereafter exist upon the Property for purposes of construction, maintenance or repair of Lots located thereon and for such other reasonable purposes as Developer may determine from time to time, and this easement shall not be limited to any period of development of the Property. The easements provided in this Section 5 may not be amended or terminated without the consent

of the Developer. Developer and any builder may use residences, offices, or other buildings owned or leased by Developer or builder as model residences and sales offices and may also use recreational facilities available for use by the community, or Common Property without charge.

Section 6. Ingress and Egress. Each Lot shall be and is subject to a perpetual non-exclusive easement for pedestrian ingress and egress over and across said Lot for the benefit of all Lots within a grouping of Lots which is bounded on each side by an Exterior Unit and separated from the adjoining Unit by less than four (4) inches. This easement shall be located as follows: in the case of any Exterior Unit, an area five (5) feet wide parallel to and adjoining the Side Line(s) and Rear Line of the Lot; and in the case of any Interior Unit, an area five (5) feet wide parallel to and adjoining the Rear Line of the Lot.

Section 7. Other. There is hereby granted a unrestricted easement over, across and in each and every Lot to the Association, its directors, officers, employees and agents, and to any and all police, public safety, sheriff, marshal, fire, ambulance, emergency medical, health, building inspection, zoning compliance, code enforcement or similar agencies, and the personnel thereof, as necessary for the proper performance of their respective lawful duties and obligations.

Section 8. Exclusive Easements Appurtenant to Each Lot. Subject to the requirements, covenants and restrictions of this Declaration, there is hereby granted and created appurtenant to each Lot an easement exclusive to the Owners and residents thereof for their use, benefit and enjoyment as to and in that certain area adjacent to each respective Lot which has been designated by the Plat as Limited Common Area for that Lot, together with an exclusive easement as to the driveway serving each respective Lot.

Section 9. Easements in and to Common Areas. Each Owner shall have the right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his Lot, subject to the following provisions:

(i) The right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the Common Areas of the Property, except for the purposes of ingress and egress to the Lot, for any period during which any assessment against his Lot which is hereby provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, By-laws, or rules and regulations;

(ii) The right of the Association as may be further set forth or limited herein to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of such loan a mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Developer, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Developer or Lot Owner

encumbering any Lot or other Property located within the community (Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Developer, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Developer or any Lot Owner encumbering any Lot or other Property located within the community.); and

(iii) The rights of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least a Majority of the Association members (as defined by the By-laws of the Association) voting in person, or represented by proxy, at a meeting duly called for such purpose, and by the Developer (so long as the Developer has an option, unilaterally to subject additional property to this Declaration as provided herein).

Section 10. Easements for Structural and Lateral Support. Every portion of any Lot or improvement thereon which contributes to the structural support of any other portion of the Property, any Lot or improvement thereon shall be burdened with an easement for such structural support and each Lot shall also have the right to lateral support which shall be appurtenant to and pass with the title to each Lot. No Owner shall demolish any improvements or structure, or make any modifications or alterations thereto or to any Lot or any Common Areas of the Property which shall impair the easements granted by this provision.

ARTICLE IV

GENERAL COVENANTS AND RESTRICTIONS

Section 1. Restriction of Use. Lots may be used only for residential purposes and those ancillary purposes permitted under applicable land use and zoning ordinances. Subject to the any maintenance responsibilities of the Association, each Owner shall maintain such Owner's Lot in a neat and clean condition and good state of repair.

Section 2. Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer or otherwise without the prior written approval in recordable form of the Association. The transfer of an undivided fractional interest in a Lot shall not be a transfer requiring Association approval.

Section 3. Prohibition of Damage and Certain Activity. Without the prior written consent of the Association, nothing shall be done or kept on the Property of any part thereof which would increase the rate of the insurance on the Property or any Lot or part thereof. Nothing shall be done or kept on the Property, or any part thereof, which would be in violation of any statute, rule,

ordinance, regulation, permit or other validly imposed requirements of any governmental body. Noxious, destructive or offensive activity shall not be carried on the Property. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort or annoyance to other Owners. No Owner shall do any work which, in the reasonable opinion of the Association Board of Directors or its designee, would jeopardize the soundness or safety of the Property or any structure created thereon, would reduce the value of thereof, or would impair any easement or hereditament thereto, without in every such case the prior written consent of the Board of Directors of the Association. No damage to or waste to the exterior of any building constructed upon any Lot shall be permitted by any Owner, member of his family or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by him, members of his family or his invitees.

Section 4. Fences. No fence which has been erected by the Developer or any builder on any Lot shall be removed or altered, except for the purposes of repairing the same, without permission of the Board of Directors. All fences, except that along the perimeter of the Property, shall be maintained by the Lot Owner to same to the quality and condition as when first erected, or better. If a non-perimeter fence is located along a common Lot line, the costs of its maintenance shall be shared equally by the adjoining Lot Owners. No fence or any other structure shall be erected on any Lot, in any easement for ingress and egress described in this Declaration, across any driveway or on any other portion of the Property except as permitted in accordance with the requirements and provisions of Article IX of this Declaration.

Section 5. Recreational Equipment. Recreational and playground equipment shall not be placed on the front or side yard of any Lot without the prior written consent of the Board of Directors.

Section 6. Leases. A Lot Owner may lease his Lot, but only in strict compliance with this paragraph. This paragraph shall not apply, except for the requirement of compliance with applicable zoning ordinances, to any individual Lot owned by a former first mortgagee or secondary purchase money mortgagee in possession of a Lot following default. All leases shall be for only those purposes permitted under applicable zoning ordinances, and shall be subject to the terms and conditions of the Declaration, the Association's Articles of Incorporation and By-Laws, and the rules and regulations of the Association. The rules and regulations adopted by the Board of Directors with respect to leasing may provide for a reasonable limitation on the number of occupants of a Lot. All leases shall be in writing. The Lot Owner shall provide a copy of the written lease to the Association. All leases by a Lot Owner shall be for a term of at least 12 months. No lease shall be of less than the entire Lot. The term "lease" shall include all leases, rental agreements and other agreements for occupancy without regard to whether the agreement or lease provides for any monetary consideration to the Owner.

Section 7. Pets. No animal or bird, other than a reasonable number of generally recognized house pets, shall be kept or maintained on any portion of the Property and then only

if they are kept or maintained solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be constructed or maintained on the property; provided, however, that an Owner may maintain one structure per Lot for the housing of a dog so long as the structure is located on the rear of the Lot and is not visible from the street on which the Lot fronts or any side street if permitted by the Board of Directors in accordance with the requirements of this Declaration. Such a structure shall be painted or stained in a color scheme that matches that of the house on the Lot and shall be no larger than a reasonable size as determined by the Association's Board of Directors. No dog runs shall be permitted on any Lot. Pets shall be under leash when walked or exercised on any unfenced area. Upon the written request of any Lot Owner, the Board of Directors of the Association shall conclusively determine whether, in its sole and absolute discretion, for the purposes of this section, a particular animal or bird is generally recognized house pet, or a nuisance, or whether the number of the animals or birds in any Lot is unreasonable; provided, however, that no such determination shall be made by the Board unless the Owner of a bird or animal in question shall have first been given an opportunity to appear before the Board for a hearing after reasonable notice of such hearing.

Section 8. Parking, Motor Vehicles, Trailers, Boats, etc. Owner's automobile(s) shall be parked only in or upon those portions of the property or the Lot designated for such purpose. The Board of Directors of the Association may adopt and enforce rules and regulations regarding mobile homes, motor homes, truck campers, trucks, trailers of any kind, boats, motorcycles, motorized bicycles, motorized go-carts and other such contrivances, or any of them, being kept, placed, stored for any period exceeding 24 consecutive hours upon any portion of the Property. Except for the purposes of pick-up or delivery, no truck exceeding 3/4 ton pickup style shall be permitted on the Property. Notwithstanding the foregoing, no vehicle in excess of 3/4 ton and no commercial vehicles shall be kept or parked on any Lot or on the Property overnight, and no boat, trailer or recreation vehicle shall be parked or stored on the Property at any time except entirely within a garage. No vehicle or other property shall be parked or placed temporarily or permanently in any manner which would obstruct or interfere with any easement or drainage or impair any right of egress or ingress. No vehicle shall be parked or stored on the grass on any Lot. No vehicle may be parked on any street in the community more than 12 consecutive hours.

Section 9. Signs. Except as may be required for legal proceedings or as provided for elsewhere in this Declaration, no "For Sale" or "For Rent" signs or other signs or advertising posters of any kind shall be maintained or permitted on any Lot unless prior written approval is obtained from the Association or the Architectural Control Committee or unless said sign conforms to the following standards: An Owner in the process of selling a Lot or an Owner seeking to sell a Lot may display one "For Sale" sign on the Lot owned, provided it is professionally lettered and measures no more than three (3) square feet. No approval shall be given to any Lot Owner for erecting or maintaining a "For Rent" sign of any kind.

Section 10. Landscaping. No material change or alteration of landscaping on any Lot shall be permitted without the prior written approval of the Board of Directors or the Architectural Control Committee of the Association.

Section 11. Residential Use. All Lots shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on, in or upon any Lot at any time except as permitted herein and as permitted under applicable zoning or Cobb County ordinances. Leasing of a Lot for residential use shall not be considered a business or business activity. However, the Board may permit a Lot to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or By-laws, does not create a disturbance and does not unduly increase traffic flow or parking congestion. The Board may issue rules and regulations regarding business activities or uses of Lots by Owners.

Section 12. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the community, except such as is installed by the Developer, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, or alteration shall be made until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Control Committee established by the Board as provided in this Declaration. The Architectural Control Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified persons, which shall have the full authority to act on behalf of the Committee for all matters delegated. Written design guidelines and procedures shall be promulgated for the exercise of this review, which guidelines may provide for a review fee in an amount to be determined by the Board of Directors.

Section 13. Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of his or her property. No property within the community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other conditions that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants surrounding the property. No noxious or offensive activity shall be carried on within the community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property within the community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required law.

Section 14. Accessory Structure. The term accessory structure, as used herein, shall refer to any attached or detached structure other than a residence placed on a Lot including, without limitation, a playhouse, tool shed, playground or recreational equipment, garage, tennis court or swimming pool. Accessory structures shall conform in exterior design and quality to the residence on the Lot and shall not exceed twenty (20) feet in height. All accessory structures placed on a Lot, if permitted, shall be located only in the rear of the Lot. Such accessory structures shall also be located within such side and rear setback lines as may be required herein or by applicable zoning law. All plans and specifications for any accessory structure to be erected on any Lot must be submitted in writing to and approved by the Architectural Control Committee in accordance with the provisions of these covenants and the addition or construction of any accessory structure shall not be commenced until such plans and specifications have been submitted and approved by the Architectural Control Committee.

Section 15. Drainage and Erosion; Sewer Lines. Catch basins and drainage areas are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant of a Lot may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. The Association hereby reserves a perpetual easement across all community property for the purpose of altering drainage and water flow. The Association further reserves an easement across all community property for the purpose of relocating sewer lines (and related easements) to comply with applicable governmental requirements or as necessary to promote efficient drainage. Rights exercised pursuant to such reserved easements shall be exercised with a minimum of interference to the quiet enjoyment of affected Lots, reasonable steps shall be taken to protect such Lots, and any damage shall be repaired by the party or parties causing the damage and its sole expense. There is hereby reserved to the Association the right to take whatever action deemed necessary to prevent erosion within the community including, without limitation, planting trees, plants and shrubs and providing drainage ways and dams.

Section 17. Entry Features, Street Signs and Buffers. Owners shall not alter, remove or add improvements to any entry features, street signs or buffer areas located on the Property without the prior written consent of the Architectural Control Committee and the Board of Directors.

Section 18. Construction Near Creeks and Streams. No permanent structures other than county approved roads, culverts, detention facilities, septic systems, and utilities shall be constructed or placed within 10 feet of the closest bank of any flowing creeks or streams, nor shall any permanent structure be constructed or placed within 10 feet of any park, recreational area or detention pond.

Section 19. Water Supply. No Lot Owner shall drill or install any well or independent water supply serving any Lot.

Section 20. Garbage and Refuse Disposal. No Lot shall be used as a dumping ground or storage location for any garbage, refuse, trash, rubbish, or plant material or refuse. Temporary storage of such items shall only be in approved containers and secured as appropriate to prevent access by animals or insects and to prevent the emission of noxious or unpleasant odors. All containers shall be stored except when necessary for pick-up in a location on the Lot concealed from public view. No containers shall under any circumstances be stored or kept in front of any Lot. Owners and residents shall comply with the requirements of any governmental authority or any authority public or private refuse service in regard to such trash, garbage, refuse, rubbish or plant material.

Section 21. Windows and Window Treatments. No foil or other reflective material or coating shall be used or applied to cover any window, whether placed inside or outside the Unit, nor shall the same be applied to or used for any drapes, window shades, screens, blinds or window coverings or which can be seen from outside the Unit. No air conditioners, or heating units shall be permitted to be mounted in or externally outside any window. No electric lighted or neon sign shall be placed in any window or in a manner to be seen from outside the Unit. All shades, window treatments, linings or draperies visible from outside the Unit shall be white, off-white or a neutral color.

Section 22. Miscellaneous. No exterior clotheslines shall be permitted. No window air conditioning units shall be installed in any dwelling. Television antennas and satellite dishes shall be subject to such rules and regulations as may be adopted by the Board of Directors of the Association consist with applicable law and governmental regulations. No free standing antennas for the sending or receiving of radio or television signals shall be erected or maintained on any Lot. No satellite dishes whatsoever shall be permitted on any Lot in excess of 40" in diameter. No exterior fires whatsoever, except barbecue fires contained within proper receptacles therefor or other fires specifically permitted in writing by the Board, shall be permitted on the Property at any time.

ARTICLE V

ASSOCIATION: POWERS & DUTIES

Section 1. Purposes, General Powers and Duties of the Association. The Association shall be formed as a non-profit corporation organization for the sole purposes of performing certain functions for the common good and general welfare of the Owners as more fully provided herein. The Association:

(i) shall have all the powers of a corporation organized under the Georgia Non-Profit Corporation Code and an Association of property owners under the Georgia Property Owners Association Act;

(ii) shall have the power to exercise all of the rights, powers, and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration and its By-laws, including the ownership, use, leasing, operation and maintenance of real and personal property, easements, or rights of way on the Property;

(iii) shall have the power to negotiate, enter into and perform such contracts and agreements, material or incidental to discharge or performance of said rights, powers, privileges, duties and obligations as set forth elsewhere herein or in connection with the provisions of this Section.

(iv) shall have the power to assume, accept or acquire certain rights, duties and obligations as may be necessary to discharge or perform its duties or exercise any right or privilege under aforementioned Georgia laws, the Declaration, the By-laws and the provisions of this Section.

(v) shall have the power to negotiate and enter into any and all such agreements with any bank or other financial institution for the purposes of establishing and operating any bank accounts necessary or appropriate to the administration or operation of the Association;

(vi) shall have the power, right and standing to enforce the provisions of this Declaration by actions at law or Equity or by such other means as may be provided by this Declaration or the By-laws; and

(vii) shall make, collect and enforce payment of the assessments provided herein;
and

(viii) shall obtain such policies of insurance as provided herein; and

(ix) shall have the power and authority to do all acts or refrain from any acts necessary, appropriate or convenient to the accomplishment any or all of the foregoing.

The Association shall not be liable for injury to person or property caused by the conduct of any Lot Owner or such Lot Owner's family, tenant, invitee, or licensee, unless as may be otherwise expressly set forth in this Declaration or the By-laws.

Section 2. **Lots.** Maintenance of the utility lines and conduits from the point such line is tapped into a main line or conduit shall be the responsibility of the benefited Lot owners and not the Association. Except as provided elsewhere in this Declaration, the Association shall not be responsible to maintain and repair any Lot or the improvements located thereon and each Lot Owner shall at all times keep the Lot and all structures located thereon in a well-maintained, neat, clean, attractive and sanitary condition. The Lot Owner shall maintain the driveway serving his Lot.

Section 3. Services by the Association. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent its Board of Directors deems advisable, as well as such other personnel as the Board of Directors shall determine to be necessary or desirable for the proper operation of the Property and the performance of the Association's responsibilities, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the operation and enforcement of this Declaration and the By-laws.

Section 4. Rules, Regulations and Fines. The Association may make reasonable Rules and Regulations, including Architectural Standards, governing the use of the Lots, which Rules and Regulations shall be consistent with the rights and duties established by this Declaration. The Association may impose such reasonable fines (not in excess of \$25 per day per violation) for violation of any Architectural Standard or any of the Rules and Regulations as may be determined by the Board of Directors of the Association. Any such fine shall be deemed a special assessment under this Declaration and shall be added to and become a part of the assessment to which the Lot is subject and shall be collected in the manner of other assessments.

Section 5. Failure to Maintain Lot. In the event an owner of any Lot in the Property shall fail to maintain such Owner's Lot and any structures erected thereon in the manner required by this Declaration after written notice and a reasonable opportunity to cure is given to the Owner, then the Association, after approval by two-thirds vote of the Board of Directors of the Association, shall have the right to perform any maintenance, restoration, or repairs necessary to meet the standards and requirement imposed by this Declaration. The cost of such repair, maintenance, or restoration shall be added to and made a part of the assessment to which such Lot is subject, which assessment shall be collected in the manner of other assessments.

Section 6. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or By law, and every other right or privilege reasonable to be implied from the existence of any right, privilege or duty created herein or reasonably necessary to effectuate any such right, privilege, or duty.

Section 7. Dedication or Transfer of Common Property. The Association shall have the right to dedicate or transfer all or any portion of the Common Property, subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least a Majority of the Association members (as defined by the By-laws of the Association) voting in person, or represented by proxy, at a meeting duly called for such purpose, and by the Developer (so long as the Developer has an option unilaterally to subject additional property to this Declaration as provided herein).

Section 8. Limitation of Powers. Notwithstanding anything in this Declaration to the contrary, the Association shall not have the power to convey any interest, easement, license, mortgage, deed to secure debt, lease or otherwise, except for such limited purposes as may be set out elsewhere in this Declaration, if any, without the approval of more than two-thirds (2/3) of the Board of Directors. Notwithstanding anything in this Declaration to the contrary, the Association shall not have the power to convey any interest, easement (other than general utility easements not materially affecting the use of any Lot), license, mortgage, deed to secure debt, lease or otherwise, except for such limited purposes as may be set out elsewhere in this Declaration, without the advance written consent of the Developer during the period of existence of Developer's Class B membership in the Association as provided in the By-laws.

Section 9. Administration of the Association by Developer. Notwithstanding any other provisions hereof, the Developer may have the right to appoint and remove any member or members of the Board of Directors of the Association and control the Association in the manner and for such period as set forth in the By-laws of the Association, a copy of which may be recorded as an exhibit hereto by Amendment to this Declaration.

ARTICLE VI

ASSOCIATION: MEMBERSHIP & VOTING RIGHTS

Section 1. Membership. Every Owner shall be a member of the Association by virtue of ownership of a Lot in such manner as set forth in the By-laws. If title to a Lot is held by more than one person, each of such persons shall be members. Each such membership shall be appurtenant to the Lot upon which it is based, shall be transferred automatically by conveyance of that Lot, and shall not be severable therefrom. No person or entity other than an Owner may be a member of the Association, and a member of the Association may not be transferred except in connection with the transfer of title to a Lot; provided, however, that the voting rights of any Lot may, if required by a mortgagee, be assigned by an Owner to such mortgagee as further security for a loan secured by a Lot. All Owners shall be entitled to one vote for each Lot owned. If more than one person holds an interest in any Lot, then the vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more than one vote be cast with respect to such Lot. If the co-Owners of any Lot cannot agree as to how a vote on a particular issue is to be cast, then no vote for such Lot on that particular issue shall be counted; there can be no split vote. Notwithstanding the foregoing, any co-Owner of a Lot who purports to cast a vote for such Lot shall be conclusively deemed to be casting such vote on behalf of and with the approval of all other co-Owners of such Lot unless another co-Owner objects before the final vote tally. Voting procedures or other requirements not inconsistent with this Section may be set forth in the By-laws. In the event any Owner is delinquent in the payment of assessments or other charges for more than thirty (30) days or in violation of the provisions of this Declaration, the By-laws or any Rule or Regulation of the Association, such Owner's right to vote in the Association shall be automatically suspended without further action or notice by the Association, which

suspension shall automatically terminate upon payment of the delinquent assessments or charges or the cure by any Owner of any and all violations.

Section 2. Administration of the Association. Notwithstanding any other provisions hereof, unless the vote or action of members of the Association is expressly required, the Association shall be governed and all decisions or actions regarding the operation of the Association and the exercise of its rights, powers, and authority shall be determined by its Board of Directors pursuant to majority vote of its directors unless some other provisions of Georgia law, this Declaration, the Articles of Incorporation or By-laws requires a vote otherwise.

Section 3. Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation of the Association and by the By-laws of the Association. In the event of any conflict between this Declaration and the Articles of Incorporation or By-laws, this Declaration shall control.

ARTICLE VII

MAINTENANCE OF PROPERTY

Section 1. Maintenance Responsibilities of Owners and Association. All Lots, with the exception of the fence along the perimeter of the Property or any portion thereof, together with the all structures or improvements located thereon, shall be maintained by their respective Owner and shall be kept in a neat, clean, safe and attractive condition and appearance. Maintenance by the Owner shall include, but shall not be limited to, painting, repair and replacement as needed of any portion of the Lot, structure or improvement, including the driveway serving the respective Lot, except the maintenance of all lawns and landscaping on the Lot. No Owner shall alter the exterior appearance of any structure or improvement; remove or replace any architectural element or detail of any structure or improvement; or alter, remove or replace any landscaping or lawn on any Lot without compliance or approval with Article IX of this Declaration. The Association shall be responsible for the maintenance of all landscaping and lawn care, and for the maintenance and repair, replacement or removal of any fence or portion thereof which is located along the perimeter of the Property, the costs and expenses for which shall be a common expense of the Association which shall be assessed against all Owners in accordance with the provisions of Article VIII of this Declaration. No Owner or resident shall make any repairs, undertake restoration nor replace any portion of any perimeter fence without permission of the Board of Directors. Subject to the provisions of Article VIII of this Declaration, the Association shall also maintain such entryways or signage as may be deemed necessary to identify the Property or enhance its appearance as may be provided for herein. The Association shall be responsible for maintaining all landscaping on the Property in the manner in which the Board deem appropriate and all roads and roadways, gutters, sewers or utility lines which have not been dedicated to and accepted by any governmental unit or entity.

Section 2. Remedies by the Association. Any failure or refusal by any Owner to comply with the provisions and requirements of this Article shall be subject to the assessment of fines or other procedures and remedies granted to the Association for violation or breach of the provisions of this Declaration or any Rule and Regulation. In addition to such remedies, the Association, acting through any designated agent, after giving five (5) days advance written notice to the Owner by certified mail or hand delivery shall have the right, but not the obligation, to enter upon the Lot during customary business hours on any day but Saturday or Sunday and perform any and all necessary maintenance, repair or replacement and the costs and expenses thereof shall be assessed against the Owner which shall be collectible as any other assessment made pursuant to this Declaration as further provided in Article V, Section 5 of this Declaration.

Section 3. Party Walls. Each wall or fence built as part of the original construction of the Property or improvements and placed along the dividing line between any Lot or Lots shall constitute a party wall or party fence and the general rules of law regarding party walls or fences shall apply between the Owners of the Lots so affected, and the maintenance, repair, reconstruction and repair thereof shall be the responsibility of the respective Owners of affected Lots in accordance with law which costs thereof shall be shared equally among or between those Owners, subject to the rules and obligations for contribution and the liabilities for contribution that may exist and apply under Georgia law. The rules which apply by this section and by Georgia law to party walls shall also apply with equal force and effect to the roof area of any improvement or structure located above any party wall.

Section 4. Procedure for Maintenance of Roofs. In the event any Owner deems repair or maintenance is needed to the roof of any Unit as to which his or her Unit shares a party wall or as to any portion of the roof which is subject to the requirements for party walls as set forth in Section 3 of this Article, that Owner shall thereupon notify in writing by hand delivery or certified mail the other Owner(s) having any ownership of said roof of the same, specifying the nature of the repairs or maintenance necessary and demanding that the same be made within ten (10) days. In the event the Owner(s) receiving notice do not respond to said notice, fail to make the requested maintenance or repairs, or disputes the need for the demanded maintenance or repair, then, within five days thereafter, the Owner demanding repairs shall submit a copy of the Notice and all enclosures thereto to the Association's Board of Directors Owner along with the other Owner's written objection(s), if any, to the need for making the maintenance or repair. The Board of Directors shall within ten (10) days of receipt of such notice of any dispute hold a meeting with all affected Owners and try to mediate an agreement acceptable to all affected Owners. In the event the affected Owners are unable to agree as to the roof maintenance or repairs or the costs thereof, then the Board of Directors shall have the right, but not the obligation, to perform such repairs or maintenance as it deems appropriate as to said roof as a common expense of the Association and thereafter the Board of Directors shall specially assess the costs thereof against the Lot or Unit as to which the repairs were made, which assessment shall become a lien upon the Lot and the obligation of the Owner(s) thereof, which assessment shall be collected in the manner provided for in Article VIII of this Declaration, which assessment and lien shall include the imposition of late charge(s), interest, cost of collection, including reasonable attorneys fees actual

incurred, and rents as any other assessment provided for in this Declaration. Nothing herein shall impair or prevent any Owner having any claim, right, or cause of action against an adjacent Unit Owner from asserting the same directly by any means and procedures provided by law, nor relieve any Owner for any liability for damages he or she may have by reason of any failure or refusal to maintain or repair his or her roof; however, nothing herein shall make the Association or its Board of Directors liable for the costs of any roof maintenance or repairs or for any decision of the Board of Directors not to undertake repairs or maintenance as a common expense as permitted, but not required, herein.

ARTICLE VIII

ASSESSMENTS

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

(a) Each Owner of any Lot shall pay the following sums to the Association as assessments:

- (i) annual assessments or charges;
- (ii) special assessments against all of the Lots for the purposes hereinafter described, such assessments to be established and collected as hereinafter provided; and
- (iii) special or other assessments made against any particular Lot or Lots which are authorized and established pursuant to the terms of this Declaration or the Association's By-laws.
- (iv) all fines and any other expense of the Association for services or materials provided to any Lot at the request of the Owner thereof or pursuant to any provision of this Declaration.

(v) All expenses set forth in Section 2 of this Article, below.

All such assessments, together late charges in the amount of ten percent (10%) of the amount of any assessment or installment thereof not paid when due; interest at the rate of ten percent (10%) per annum on the assessment or any installment thereof and late charges at the rate of ten percent (10%) per annum from the date first became due and payable; costs of collection, including court costs, costs of preserving and protection of the Lot, and reasonable attorney's fees actually incurred; and the fair rental value of the Lot from the time of the institution of suit to collect the assessments and other costs and charges due until sale of the Lot at foreclosure or until the judgment rendered in any action is satisfied, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. The Association shall have such lien rights, and the Association's lien shall have such priorities as are set forth O.C.G.A. Section 44-3-232. Each such assessment, together with late charges, interest, costs of collection, including

reasonable attorney's fees actually incurred, and rents (as set forth above) shall be the personal obligation of each person(s) who was an Owner of such Lot at the time when the assessment fell due along with those persons or entities as set forth in O.C.G.A. Section 44-3-225 (c) and (d). Every owner of a Lot, by acceptance of a deed therefor, is deemed to covenant and agree to pay assessments as set forth in this Section 1, whether or not such covenant and agreement be set forth in such deed. The lien for assessments as provided for in this Declaration and the Georgia Property Owners Association Act shall be automatically perfected and no filing or recordation of any lien shall be required as provided for by O.C.G.A. Section 44-3-232 (a). The lien and any personal obligation for any assessment shall be collected in accordance with the procedures set forth in O.C.G.A. Section 44-3-232 (c).

Section 2. Liability for Common Expenses. As provided for by O.C.G.A. Section 44-3-225 (a), any expense of the Association benefitting less than all of the Lots shall be specially assessed equitably among and against all Lots so benefited, as the Board of Directors shall determine; any expenses of the Association occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by any tenant, licensee or invitee of any Lot or Lots shall be specially assessed against the Lot or Lots the conduct of any occupant, tenant, licensee or invitee which caused or occasioned the expense; and any expense of the Association significantly disproportionately benefitting all of the Lots shall be assessed equitably among all of the Lots in the manner and amounts determined by the Board of Directors, in addition to any amounts that may be specially assessed in accordance with any other provision of this Declaration. No Owner except the Association shall be exempted from any liability for any assessment made pursuant to this Declaration for any reason whatsoever, including without limitation, any limitation, abandonment, nonuse, or waiver of the use or enjoyment of any part of the Property or any Lot.

Section 3. Purpose and Categories of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property; to pay the cost of improvement, maintenance and replacement of any Lot Property or improvement or structure erected thereon, as provided for elsewhere herein; easements, landscaping or signage; the performance or discharge of any obligation pursuant to any contract or agreement of the Association; to fund or pay all obligations of a financial nature, together with any expense for maintenance, improvement or replacement, which may be required pursuant to this Declaration; the operation of the Association; management fees to others; to make such repairs as the Association may deem necessary; to pay taxes; to pay gas, electric and water charges assessed against any property for which the Association is responsible; to pay insurance premiums as contemplated or required herein; to enforce this Declaration and the Associations By-laws; to collect assessments provided for by this Declaration; for such other related purposes as the Board of Directors may determine consistent with this Declaration; and to establish and fund any reserve account, as provided herein.

Section 4. Annual assessment. The annual assessments to be levied by the Association shall be determined as follows:

(a) Within thirty (30) days prior to the date of each annual meeting of the Association, the Board shall cause to prepare an operating budget for the financial obligations and operation of the Association for the succeeding fiscal year; for the performance, payment or funding any obligation of the Association pursuant to the Declaration and By-laws; and any reserve account or financial reserve the Board of Directors may determine is necessary or appropriate. The future financial needs of the Association, including replacement and repairs for which the Association is responsible, shall be reviewed annually by the Board prior to preparation of the budget, taking into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost and funds on deposit in any reserve account. Funds deposited in the reserve account shall be used from time to time for the needs of the Association as the Board may determine. The budget shall include compensation of any entity or persons which may be employed by the Board to perform the duties of the Association hereunder. The budget shall be based upon reasonable, good-faith estimates of the actual expenses and funding obligations of the Association for such year. Based on this budget, the Board of Directors shall fix the amount of annual assessment against each Lot in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. Unless the Board shall otherwise determine, the annual assessments shall be payable in four (4) equal quarterly installments on the first day of each quarter, beginning with the first month of the new fiscal year. All assessments received or collected shall be deposited in such accounts at such banking institution as the Board may determine. The portion of any assessment paid for any reserve account shall be segregated from the operating funds account and shall be kept or deposited in a separate federally insured account or federally insured certificate of deposit(s).

(b) The Association shall, upon request, and for a reasonable charge (not to exceed \$10), furnish a statement signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid provided said statement is requested under and issued in accordance with the requirements, prerequisites and provisions of O.C.G.A. Section 44-3-232(d).

(c) If an annual budget or assessments established hereunder proves inadequate for such fiscal year, then the Board may, at any time within said fiscal year, levy a special assessment for the purpose of meeting the necessary operating expenses or financial obligations of the Association in the event an emergency exists. The amount of any emergency special assessment hereunder shall be only in such amount as is necessary to meet the immediate operating expenses and needs of the Association caused by the emergency and nothing herein shall be deemed to invalidate or exempt the Association from the requirements of Section 5, below, in regard to certain capital improvements or expenses.

(d) If the operating budget assessments and obligations established hereunder for any fiscal year results in a surplus for such year, then the Board may credit such surplus to any reserve or make such other disposition of such surplus as the Board deems consistent with the obligations imposed on the Association hereunder. Nothing herein shall obligate or require the Board of Directors to reduce the assessment for any subsequent year or to rebate or refund to any Owner any surplus or any portion thereon, however, the Board or Directors shall take into consideration

the existence and amount of said surplus in determining the assessment for the succeeding fiscal year and shall have the authority to rebate or refund surplus assessments to Owners as the Board in its sole discretion may deem appropriate.

Section 5. Special Assessments for Capital Improvements or Expenses. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital item or improvement to the Property, and including fixtures and personal property related thereto for which the Association is responsible to maintain, repair or replace, provided that any such assessment shall have the assent of at least two-thirds (2/3) of the Owners of the Association. The Board of Directors may make such special assessment payable in installments on such terms as it may determine.

Section 6. Association Approval of Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 5 shall be sent to all members not less than fifteen (15) days not more than thirty (30) days in advance of the meeting. At any such meeting called, the presence of members, either in person or by proxy, entitled to cast more than fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present another meeting may be called subject to the same notice requirement. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. Limitations on Amount and Use of Assessments. Except for special assessments made against less than all Lots pursuant to Section 2 of this Article, fines or other charges levied or assessed against any Lot or Lots or Owners thereof pursuant to the Declaration or the Associations' By-laws, emergency assessments made pursuant to Section 4 (c) of this Article, and the One Time Special Assessment provided by Section 7 of this Section, the total amount of all assessments levied against any Lot per fiscal year of the Association shall not exceed Three Hundred Dollars (\$300.00) unless approved at an annual or special meeting of the Association by the affirmative vote, or by written consent, or any combination thereof, of a majority of all Lots. No assessments, stream of assessments, income or other property of the Association shall be pledged, mortgaged, conveyed or hypothecated as security for any loan made or obtained for the purposes of repair, restoration, or replacement of any fence along the perimeter of the Property, or any portion or section thereof.

Section 8. Payment of Annual Assessments. Except as otherwise provided in this Article, both annual and special assessments shall be equally assessed against all Lots and any surplus, except as may be otherwise provided herein, shall be allocated equally among all Lots. Notwithstanding the foregoing, this requirement of equal assessment shall not prevent disproportionate assessments against one or more of the Lots pursuant to specific provisions of this Declaration. Common profits shall be allocated in the same manner as assessments.

Section 10. Lien for Assessments. All sums assessed to any Lot pursuant to this Article together with late charges, interest, costs of collection and rents, as provided herein, shall be

secured by a lien on such Lot in favor of the Association. Such lien shall be superior to those other liens and encumbrances in such Lot as provided in O.C.G.A. Section 44-3-232(a).

Section 11. Effect of Nonpayment of Assessments; Remedies of the Association Any assessment or portion thereof not paid when due shall be delinquent. Any assessment or portion thereof which remains delinquent for more than ten (10) days shall bear a late charge in an amount as determined by the Board or this Declaration. In addition, any assessment and late charge not paid within thirty (30) days after the due date shall bear interest from the date due at the rate of interest provided for herein. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose or otherwise enforce the lien against the Lot in any manner permitted by law. A suit to recover a money judgment for unpaid assessments hereunder may be brought or maintained by the Association without foreclosing or waiving the lien securing the same. Upon default in the payment of any one or more installments of any assessment, the Board of Directors may accelerate the remaining installment payments and declare the entire balance of said assessment then due and payable in full.

Section 12. Extinguishment of Lien. Except as herein provided, sale or transfer of a Lot shall not affect the lien for unpaid assessments and related charges or the personal obligation of any Owner or former Owner for such amount.

Section 13. Developer's Liability and Exemption for Assessments. Notwithstanding the foregoing, the Developer shall be exempt from paying any and all assessments under this Article on any Lot owned by the Developer. In addition, no Lot shall be obligated to pay assessments until a Certificate of Occupancy has been issued as to the Lot, approving its readiness for occupancy for residential purposes. This exemption shall not pass to any Owner unless said Owner falls within the definition of Developer provided in this Declaration. During the period of exemption for any Lots submitted to this Declaration and owned by the Developer, the Developer shall be responsible for payment of an amount which is equal to the difference between the amount of regular assessments levied against other Lots (exclusive of the portion of such assessment which is designated by the Association's budget as being allocated for reserves) and the actual operating expenses of the Association. These sums due from the Developer shall be treated as assessments against the Lots owned by the Developer, and shall be enforceable and collectable in the same manner as assessments against any other Lot Owner. The period of exemption for any Lots owned by the Developer shall cease as to any particular Lot upon the earlier of (i) as to an individual Lot, the actual occupancy of the Lot for residential purposes, (ii) as to all Lots owned by the Developer, the delivery of written notice to the Association of the Developer's election to terminate the exemption period provided hereunder, or (iii) as to all Lots owned by the Developer, the date upon which a judgment becomes final which awards to the Association any sums past due for assessments due by the Developer under the terms of this paragraph.

ARTICLE IX

ARCHITECTURAL CONTROLS

Section 1. Approval Procedure. No buildings or improvements, exterior additions or alterations to any building or improvement on the Property, awnings, additional fences, additional outbuildings or other structures, or changes to existing fences, hedges, walls, walkways or other structures, or any other alterations or items listed or discussed above, shall be constructed, commenced, erected or maintained, except such as were installed or approved by the Developer in connection with the initial construction of the buildings on the Property, until the plans and specifications showing the nature, kind, shape, height, material, location, color and approximate cost of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding buildings located on the Property by the Association or its Architectural Control Committee (hereafter sometimes referred to in this Article as "the Committee"). No alterations may be made in approved plans or specifications without further approval by the Association or its Committee. No road or driveway shall be constructed or altered on any Lot without prior written approval of the Architectural Control Committee. No additional paving of any kind shall be permitted without prior written approval of the Architectural Control Committee. In the event the Architectural Control Committee or its designated representatives fail to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, such approval will have been deemed to have been given. If no application has been made to the Architectural Control Committee or their representatives, suit to enjoin or remove such additions, alterations or changes may be instituted at any time by the Association or by any Lot Owner. Neither the Lot Owner members of the Architectural Control Committee nor its designated Lot Owner representatives shall be entitled to compensation for services performed pursuant to this paragraph, but compensation may be allowed to independent professional advisors retained by the Board of Directors to assist the Architectural Control Committee. The costs of such permitted compensation shall be the responsibility of the Lot Owner making the application, the amount shall be payable upon demand, and payment shall be condition precedent to any approval of submitted plans.

Section 2. Architectural Control Committee. The Architectural Control Committee shall constitute a standing committee for the Association. The duties of the Committee shall be performed by the Board of Directors unless and until the Board appoints a separate committee and delegates pursuant to the By-laws its authority to the Committee. Any committee appointed by the Board of Directors shall consist of three (3) Owners who shall serve without compensation for a term of one (1) year who shall be approved by majority vote of the Board of Directors. The members of the Architectural Control Committee shall serve at the pleasure of the Board during their term and may be removed with or without cause by a vote of two-thirds of the Board of Directors at any time. In the event of the death, removal, resignation or disqualification of any member of the Architectural Control Committee, the Board shall appoint another Owner to fulfill the remainder of the term. No Owner shall serve more than five (5) consecutive terms as a member of the Architectural Control Committee. The Architectural Control Committee shall meet at least once a month or more often as business may require.

Section 3. Landscaping. All landscaping shall conform to the following standards:

(a) Landscaping plans shall be approved by the Committee. In any event, within sixty (60) days after issuance of a certificate of occupancy, all of the yard visible from the street must be planted and landscaped in the accord with approved plans, unless a delay is approved in writing by the Committee.

(b) No healthy living tree having a diameter of four (4) inches or more (measured from a point two (2) feet above ground level), no flowering tree or shrub, nor any evergreen shall be removed by a Lot Owner unless such removal is approved by the Committee, nor may any natural ground cover be removed without approval.

(c) The Committee may publish additional rules and standards relating to the landscaping of the portion of any Lot visible from any public or Association maintained road; in the absence of published rules relating to such alterations, all changes to any landscaping of the portion of any Lot visible from any public or Association maintained road must be approved by the Committee as provided in this Article.

Section 3. Enforcement. Any violation of this Article may be addressed or corrected by the Association through an action at law or Equity, by the assessment of a fine in the same manner as provided elsewhere in this Declaration, by self-help in the same manner provided for under Article VII of this Declaration, or by any other manner, method, remedy or procedure provided for violation and enforcement of this Declaration, or any combination of them.

ARTICLE X

INSURANCE

Section 1. Insurance by Association. The Board of Directors of the Association or its duly authorized agent may obtain and maintain fire and extended coverage insurance for all insurable entryways, signage and landscaping in an amount sufficient to cover the full replacement cost of such improvements in the event of damage or destruction from any insured peril (less any reasonable deductible), together with all such insurance as may be required to may be required to be maintained or purchased by the Association pursuant to this Declaration. The Board of Directors shall obtain and maintain such worker's compensation insurance as may be required by law and such other insurance as the Board may from time to time deem appropriate. Premiums for all such insurance shall be an expense of the Association. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association. Such insurance may be further governed by the provisions contained in the By-laws of the Association.

Section 2. Owner's Insurance. Each Lot Owner shall obtain insurance for fire and extended coverage covering improvements on the Lot at the Owner's sole expense with an

insurance carrier authorized and qualified to do business in the State of Georgia for the full replacement value of such improvements, less any usual, reasonable and customary deductible amounts not to exceed \$1,000.00. Each Lot Owner shall furnish the Association with a copy of each such policy or certificate of insurance within ten (10) days following acquisition or renewal of such policy of insurance. Insofar as may be permitted by law, each such policy acquired by a Lot Owner shall contain a waiver of subrogation as to any claims against the Association and of any defense based on co-insurance. No Lot Owner shall be entitled to exercise his right to maintain insurance coverage in such a manner as to diminish or affect any recovery or payment which may be realized under any insurance policy carried by the Association. In the event any Owner fails to purchase such insurance or timely provide proof thereof, the Association shall obtain such insurance at its expense, and the costs thereof shall be specially assessed against the Lot and Owner and shall be collected as provided for other assessments, provided that nothing herein shall create in any Owner, mortgagee, or any other person or entity any right, cause of action, claim or interest against the Association for any failure to obtain insurance as set forth herein or any damage arising therefrom. In regard to any policy of insurance obtained by any Owner as required hereunder, the Association shall be named thereon as an additional insured and shall be designated as the trustee in regard to any proceeds of any such policy of such insurance. The Association shall have the right to participate in the adjustment of any insurance claim and upon receipt of the proceeds thereof in its capacity as trustee thereof shall disburse said funds for the reconstruction or repair of the improvements in accordance with and in substantial compliance with the original plans and specifications for such improvements and/or the payment of the Owner's mortgage or other appropriate expenses. Any excess proceeds after payment by the Association as provided herein shall be disbursed to the Owner. Nothing herein shall make the Association liable for the non-payment of any mortgage of any Owner, nor shall the Association be obligated to enter into or arrange for any contract or services for the reconstruction or repair of any damaged improvement. It shall be the Owner's responsibility to arrange and contract for the reconstruction and repair of any improvement within thirty (30) days of receipt by the Owner of the insurance proceeds. No Owner shall be entitled to make repairs or construct any improvements on any Lot which deviate from substantial compliance with the original plans and specifications therefor or to elect to not repair or reconstruct any improvements without the approval of more than three-fourths (3/4) of the members of the Board of Directors. However, nothing herein shall make the Association or its Board of Directors liable to any Owner or other person for any failure of any other Owner to rebuild, nor shall the Association have any affirmative duty to undertake the rebuilding of any damaged improvement on any Lot. Any failure by any Owner to comply with the provisions of this Article shall be enforced as provided for under other provisions of this Declaration.

Section 3. Reconstruction or Repair of Improvements to any Lot. In the event of any loss, casualty, damage or destruction to any Lot or any improvement thereon covered by insurance of any Owner, such Owner shall, within thirty (30) days of receipt of the proceeds of any such insurance from the trustee, contract for the reconstruction or repair of the same, which reconstruction or repair shall be completed within one hundred eighty (180) days from the date of receipt of proceeds of the insurance. Any Owner who desires not to repair or reconstruct in the

circumstances of a total loss to any insured improvement, if permitted by the terms of his or her insurance policy and any mortgage or security instrument, may apply to the Board of Directors for permission to not rebuild or reconstruct, as provided for in Section 2, above. Each Lot Owner shall cooperate fully with the Association and exercise good faith in regard to his or her responsibilities under this Article.

Section 4. Insurance Review. At least once every two (2) years, the Association shall conduct with the assistance of a qualified insurance professional a review of all insurable improvement located on the Property to determine the replacement costs thereof. The costs of the review shall be included in the Association's budget and shall be an expense of the Association, except that any unusual or excessive expenses relating to any specific Lot or Lots may be specially assessed to those Lots and their respective Owners as provided elsewhere in this Declaration. Any recommended or appropriate changes or increases in insurance coverage discovered or identified as a result of such review shall be communicated to the affected Owner(s), who shall have thirty (30) days from the giving of such notice to adjust their respective insurance policies in accordance therefor and provide proof of such adjustment in the policy or policies of insurance to the Association.

Section 5. Fidelity Bond. In addition to any other insurance required hereunder, the Association shall obtain, maintain and pay, as a common expense, the premiums on a blanket fidelity bond for all officers, directors, and employees of the Association and all other persons handling or responsibility for funds of or administered by the Association in amounts and on such terms as may be recommended or specified from time to time by the Federal National Mortgage Association ("FNMA") for projects of the type and size of Arbor Glen.

ARTICLE XI

MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the community. The provisions of this Article apply to both this Declaration and to the By-laws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot 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 community or which affects any Lot 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 Lot subject to the Mortgage of such eligible holder, where such delinquency had 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 Lot of any obligation under the Declaration or By-laws of the Association which is not cured within sixty (60) days;

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

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

Section 2. No Priority. No provision of this Declaration or the By-laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Lot or the commonly owned property.

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

Section 4. Applicability of Article XI. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-laws, or Georgia law for any of the acts set out in this Article.

Section 5. Failure of Mortgagee to Respond. Any Mortgagee who received a written request from the Board to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run and bind the community, and shall inure the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law; provided, however, so long as Georgia law may limit the period during which the covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land for the maximum period permitted by law, after which time this Declaration shall be automatically extended for successive periods

of ten (10) years, unless such extension is disapproved by the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the total Association vote. A written instrument reflecting disapproval must be recorded within the year immediately preceding the beginning of a ten (10) year renewal period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided for in this Section.

Section 2. Enforcement. The Association and any Owner shall each have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If these restrictions are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the cost incurred, in the discretion of the Board of Directors of the Association. The Association shall be entitled to recover its cost of obtaining an order enforcing the Declaration from any Owner found by a court to be in violation of the Declaration.

Section 3. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the By-laws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. Notwithstanding the foregoing, improperly parked or stored vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be specially assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 4. Amendment. To the extent not in conflict with the Georgia Property Owners Association Act, this Declaration may be amended at any time and from time to time by the Board of Directors without a vote by Owners (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, or any governmental entity insuring or guaranteeing any mortgage loan, including for example, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the Veteran's Administration to enable any lender or purchaser to make or purchase any mortgage or Lot subject to this Declaration. In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the total Association vote. Amendment to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. Notwithstanding the foregoing

provisions, this Declaration may be amended unilaterally at any time and from time to time by Developer (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser 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 the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee mortgage loans on the Lot subject to this Declaration; or, if such amendment is necessary to correct any error in drafting of this Declaration, whether scrivener's error or otherwise, provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Developer has the right unilaterally to administer the Association pursuant to the terms of the Declaration and By-laws, Developer may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner. No provision of this Declaration which reserves or grants special rights to the Developer shall be amended without the Developer's prior written approval so long as the Developer owns any property in the community for sale or resale.

Section 5. Severability. Invalidation of any one of these covenants or restrictions or any other provision of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 6. 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 7. Preparer. This Declaration has been prepared by Jeffrey A. Hurley, Attorney at Law, Georgia Bar No. 379650, JEFFREY A. HURLEY, P.C., P. O. Box 911, Snellville, Georgia 30078-0911, Telephone (770) 682-0017.

Section 8. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized or executed by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having interest in the community or the privilege of possession and enjoyment of any part of the community.

Section 9. Gender and Plurals. To the extent required by the context, masculine nouns or pronouns shall include and embrace the feminine and vice versa, and the singular shall include the plural and vice versa.

(CONSENT TO SUBMISSION AND SIGNATURES CONTINUED ON NEXT PAGE)

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