

**CC&Rs-Condominium Declaration
Stonegate HOA**

GEORGIA, FULTON COUNTY
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JUANITA HICKS
CLERK OF SUPERIOR COURT

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
STONEGATE

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TABLE OF CONTENTS

<u>ARTICLE</u>	<u>SECTION</u>	<u>PAGE</u>
I	DEFINITIONS	2
II	RESERVATIONS FOR DECLARANT	5
	1. Development of Property	5
	2. Subdivision Plat	5
III	ADDITIONAL PROPERTY	6
IV	PROPERTY RIGHTS	7
	1. General	7
	2. Owner's Easement of Enjoyment	8
	3. Delegation of Use	9
	4. Easements for Declarant	9
	5. Title to Common Area	10
	6. Changes in Boundaries	10
	7. Easements for Utilities and Public Services	10
	8. Easements for Walks, Trailers, Signs, and Perimeter Wall	11
	9. Easement for Association	12
	10. Maintenance Easement	12
	11. Environmental Easement	12
	12. Easements for Additional Property	12
	13. Maintenance Easement Around Lakes	13
V	THE ASSOCIATION	13
	1. Purposes, Powers and Duties of the Association	13
	2. Membership of the Association	13
	3. Voting Rights	14
	4. Board of Directors and Administration of the Association	14
	5. Suspension of Membership	14
	6. Termination of Membership	15
	7. Control by Declarant	15
VI	MAINTENANCE	15
	1. Responsibilities of Owners	15
	2. Association's Responsibility	16
	3. Retention Pond	17
	4. Builder's Responsibility	18
	5. Lakes	18
VII	INSURANCE AND CASUALTY LOSSES	19
	1. Insurance	19
	2. Damage or Destruction to Common Areas	20
	3. Damage or Destruction to Lots or Structures	21
VIII	CONDEMNATION	21
	1. Condemnation of Common Areas	21
	2. Condemnation of Lots or Structures	23

IX	ADMINISTRATION	24
	1. Actions by Board	24
	2. Agreements	24
	3. Indemnification	25
X	ASSESSMENTS	25
	1. Purpose of Assessments	25
	2. Creation of Lien and Personal Obligation of Assessments	26
	3. Computation of Annual Assessments	26
	4. Initial Annual Assessment	28
	5. Individual Assessments	28
	6. Effect of Nonpayment; Remedies of the Association	28
	7. Certificate	29
	8. Date of Commencement of Annual Assessments	29
XI	GENERAL COVENANTS AND RESTRICTIONS	30
	1. Covenants and Restrictions	30
XII	ARCHITECTURAL CONTROLS	38
	1. Architectural Control Committee - Creation and Composition	38
	2. Purpose, Powers and Duties of the Architectural Control Committee	39
	3. Officers, Subcommittees and Compensation	39
	4. Operations of the Architectural Control Committee	40
	5. Design Standards	41
	6. Submission of Plans and Specifications	42
	7. Approval of Plans and Specifications	43
	8. Disapproval of Plans and Specifications	43
	9. Approval of Builders	44
	10. Obligation to Act	44
	11. Inspection Rights	44
	12. Violations	44
	13. Certification of Compliance	45
	14. Fees	45
	15. Nondiscrimination by Architectural Control Committee	45
XIII	RULE MAKING	46
	1. Rules and Regulations	46
XIV	ENFORCEMENT	46
	1. Right of Enforcement	46
	2. Right of Abatement	46
	3. Specific Performance	47
	4. Costs	47
	5. Suspension of Common Area Use	48

XV	AMENDMENTS TO DECLARATIONS	48
	1. Amendments by Declarant	48
	2. Amendments by the Association	49
XVI	DURATION	50
	1. Duration	50
	2. Perpetuities	51
	3. Interpretation	51
	4. Gender and Grammar	51
	5. Severability	51
	6. Right of Third Parties	51
	7. Notice of Sale, Lease, or Mortgage	52
	8. No Trespass	52
	9. Notices	52
	10. No Liability	52

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR STONEGATE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR Stonegate (hereinafter referred to as the "Declaration") made this _____ day of _____, 1994, by Habersham Investment & Development Corporation, a Georgia corporation (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Fulton County, Georgia, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant intends that every Owner (as hereinafter defined) of a Lot (as hereinafter defined) which is made subject to this Declaration does automatically and by reason of such ownership, and by reason of this Declaration, become a member of the Stonegate Homeowners Association, Inc. (hereinafter the Association) and subject to the assessments by the Association pursuant hereto; and

WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege, and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the residential community described herein, such other property as Declarant may acquire from time to time and wish to subject to the terms of the Declaration; and

WHEREAS, in connection with the development of the aforesaid residential community, Declarant is developing certain common areas consisting of a clubhouse and other recreational facilities and amenities on that certain real property described in Exhibit "A".

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values the Development and for the maintenance of the Property (as hereinafter defined) and the improvements thereon, and to this end desires to subject the real property described in Exhibit A to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

NOW, THEREFORE, Declarant hereby declares that all of the Property described in Exhibit A and any Additional Property (as that term shall be hereinafter defined) as may by subsequent amendment hereto be subjected to this Declaration shall be held, transferred, sold conveyed, leased, occupied, and used subject to

the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall, subject to the limitations herein provided, inure to the benefit of each Owner thereof, the Declarant, the Association, their heirs, guarantes, distributees, successors and assigns.

ARTICLE I

DEFINITIONS

1.01 Definitions. When used in this Declaration, unless the context shall prohibit or otherwise require, the following terms shall have all the following meanings; moreover, all definitions shall be applicable to and shall include both the singular and plural forms of each term:

(a) "Additional Property" shall mean and refer to such other real property, and all improvements thereon which Declarant, by Amendment to this Declaration, shall acquire and add to the Property and which shall be shown on a plat recorded with the Clerk of the Superior Court of Fulton County, Georgia.

(b) "Architectural Control Committee" or "ACC" shall mean the committees established pursuant to Article XII hereof to supervise compliance with the "design standards".

(c) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Habersham at Stonegate Homeowners Association, Inc., as amended from time to time.

(d) "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges form time to time assessed against an Owner by the Association in the manner herein provided.

(e) "Association" shall mean and refer to Habersham at Stonegate Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of Georgia.

(f) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(g) "Builder" shall mean and refer to any person or entity who is constructing a Dwelling on the property.

(h) "By-Laws of the Association" or the "By-Laws" shall mean and refer to those By-Laws of the Habersham at Stonegate Homeowners Association, Inc. which govern the administration and operation of the Association, as the same may be amended from time to time.

(i) "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association or Declarant for the common use and enjoyment of the Occupants and Owners. This shall include, but not be limited to the maintenance areas, entrance areas and landscaped islands, retention pond areas, if any, custom lamp lights and mailboxes, streets, parking lots, walkways, signage, dams and recreational areas as may be more particularly described in any subsequently filed plat of the Property and Additional Property. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment therein.

(j) "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration.

(k) "Declarant" shall mean and refer to Habersham Investment & Development Corporation, a Georgia corporation, or any successor-in-title to the entire interest with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, provided said any said successor in title shall acquire the Property and the Additional Property for purposes of development or sale, or any party who acquires Stonegate's entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to foreclosure of a Mortgage encumbering the Property or the Additional Property. At such time as Stonegate, L. P. or any successor in title to Stonegate, L. P. as described herein no longer owns any lots within the Property, the Declarant status shall cease and all references to Declarant as used herein shall be void and of no further effect.

(l) "Declaration" shall mean and refer to all covenants, conditions, restrictions, charges, and liens set forth in this instrument for and all amendments thereof filed for recorded in the Records of the Clerk of the Superior Court of Fulton County, Georgia.

(m) "Design Standards" shall mean standards adopted, promulgated, amended, revoked and enforced by the Architectural Control Committee pursuant to Article XII hereof.

(n) " Dwelling " shall mean any single-family detached residence located within the Development.

(o) " Foreclosure " shall mean and refer to, without limitation, the judicial or non-judicial foreclosure of a Mortgage, or the conveyance of secured property by a deed in lieu of a foreclosure.

(p) " Lakes " shall mean and refer to all lakes or other non-flowing bodies of water (expressly excluding streams, creeks, rivers or any flowing bodies of water) located on the Property and as shown on any plat of survey of the Property prepared by or on behalf of Declarant, and filed in the records of the Clerk of the Superior Court of Fulton County, Georgia.

(q) " Lease " shall mean and refer to any lease, sublease, assignment, or rental contract, whether oral or written.

(r) " Lot " shall mean and refer to any parcel of land located on the Property or Additional Property as shown on any recorded plat of the Property, with the exception of the Common Areas, upon which a Dwelling can be constructed.

(s) " Membership Fee " - A one time fee of \$650.00 to be paid by each purchaser of a Lot on which a dwelling is located at the time of the purchase of said Lot to obtain membership in the Association. All Membership Fees shall be applied by the Association for purposes set forth in Paragraph 10.01 hereof.

(t) " Mortgage " shall mean and refer to a security deed, deed of trust, mortgage, or other similar security instrument granting, creating, or similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Lot, Dwelling or any other real property located within the Property.

(u) " Mortgagee " shall mean and refer to the holder of a Mortgage.

(v) " Occupant : " shall mean and refer to any person, including, without limitations, any Owner or any guest, invitee, assignee, lessee, tenant, or family member of an Owner, occupying or otherwise using a Dwelling within the Development.

(w) " Owner " shall refer to any person, (as hereinafter defined), including Declarant, who is or shall be a record owner by purchase, transfer, assignment of foreclosure of a fee or undivided fee interest in a Lot, excluding, however, those persons having an interest merely as security for the performance of an obligation, such as an interest under a Mortgage.

(x) "Person" shall mean and refer to a natural person, corporation, partnership, joint venture, association, trust, or other legal entity, or any combination.

(y) "Property" shall mean and refer to all that tract or parcel of land described on Exhibit A, together with all improvements Dwellings or Structures, whether now existing thereon or constructed thereon at any time in the future, including the Common Areas, Lakes, roads, utility systems, drainage systems, and other improvements, whether now existing or constructed thereon at any time in the future, serving the Lots and Dwellings, and, upon submission to the provisions of this Declaration, any Additional Property added by amendment hereto, together with all improvements thereon.

(z) "Structure" shall mean and refer to: (i) any thing or object, the placement of which upon any Lot or Common Area may affect the appearance of such Lot or Common Area, including by way of illustration and not limitation, any building or part thereof, any Dwelling or part thereof, garage, porch, gazebo, dock, dam, shed, mailbox, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, parking pads, any facility for the care, housing or confinement of animals, water supply systems, exterior lights, playhouse, recreational or playground equipment, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, satellite dish, statues, mailbox, driveway, sidewalk, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; (ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (iii) any change in grade at any point on a Lot of more than six (6) inches.

ARTICLE II

RESERVATIONS FOR DECLARANT

2.01 Development of Property. Declarant shall have the right, but not the obligation, for so long as Declarant owns any Lot primarily for the purpose of sale to make improvements and changes to all Common Areas and to all Lots or Dwellings owned by Declarant, including, without limitation, (i) installation and maintenance of any improvements in and to the Common Areas or Lakes, (ii) changes in the location of the boundaries of any Lots or Dwellings owned by Declarant or of the Common Areas or Lakes, (iii) changes in the boundaries between the Common Areas and any portion of the Property owned by Declarant (or any of the Additional Property submitted to the terms hereof), (iv) installation and maintenance of any water, sewer, and other utility systems and facilities, and (v) installation of security and/or refuse facilities.

2.02 Subdivision Plat. Declarant reserves the right to record, modify, amend, revise and add to, at any time and from time to time, a subdivision plat setting forth such information as Declarant may deem necessary with regard to the Development, including, without limitation, the locations and dimensions of the Lots, Dwellings, Common Areas, Additional Property, roads, utility easements and systems, drainage easements and systems, right-of-way easements, and set-back line restrictions. Any matters shown on said plat or plats of survey shall constitute restrictions running with the land.

ARTICLE III

ADDITIONAL PROPERTY

3.01 Declarant hereby reserves the option, to be exercised in its sole discretion, to submit from time to time the Additional Property or a portion or portions thereof to the provisions of this Declaration and thereby to cause the Additional property or a portion or portions thereof to become part of the Property. This option may be exercised by Declarant in accordance with the following rights, conditions and limitations, which are the only conditions and limitations on such option to add all or any portion of the Additional Property to the Property.

(a) The option may be exercised from time to time during a period of five (5) years from the date of this Declaration; provided, however, that Declarant reserves the right to terminate such option at any time prior to the expiration of such five (5) year period by executing and filing an agreement evidencing such termination in the records of the Clerk of the Superior Court of Fulton County, Georgia, and, except for such termination by Developer, no other circumstances will terminate such option prior to the expiration of such five (5) year period.

(b) Portions of the Additional Property (together with additions thereto made in accordance herewith) may be added to the Property at different times, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence or location in which any of such portions may be added to the Property. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar the further exercise of this option as to other portions or the balance of the Additional Property.

(c) If the Additional Property or any portion thereof is added to the Property, Declarant reserves the right to designate the boundaries of the lots to be added to the Property in connection therewith.

(d) Should the option to add the Additional Property, or any portion thereof, not be exercised within the term specified

herein or be terminated by Declarant, such option shall in all respects expire and be of no further force and effect. In the event that such option expires or is terminated, Declarant shall not be obligated to impose on the Additional Property or any portion thereof any covenants, conditions or restrictions whatsoever.

(e) The option reserved by Declarant to cause all or any portion of the Additional Property to become part of the Property shall in no way be construed to impose upon Declarant any obligation to add all or any portion of the Additional Property to the Property or to construct thereon any improvements of any nature whatsoever.

(f) The option reserved under this Article III may be exercised by Declarant only by the execution of an amendment to this Declaration which shall be filed in the records of the Clerk of the Superior Court of Fulton County, Georgia, together with a legal description of the Additional Property or such portion or portions thereof as are being added to the Property by such amendment. Such amendment shall not require the consent of any Owner of a Lot, it being intended that Declarant shall have the unilateral right to amend the Declaration with respect to the submission of the Additional Property to the terms and provisions of this Declaration.

ARTICLE IV

PROPERTY RIGHTS

4.01 General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his Lot, subject to the provisions of this Declaration, including without limitations the provisions of this Article IV. If any chutes, flues, ducts, conduits, wires, pipes, plumbing, or any other apparatus or facilities for the furnishing of utilities or other services to a Lot lie partially within and partially outside of the designated boundaries of the Lot in question, then any portions thereof which serve only such Lot in question, shall be deemed to be a part of such Lot. Any portions thereof which serve more than one Lot, or any portion of the Common Areas, shall be deemed to be a part of the Common Areas. Lots shall not be subdivided, and, except as provided in Section 2.01 and 4.06 hereof, the boundaries between Lots shall not be relocated, unless the relocation thereof is made with the written consent of (a) the Declarant, so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Property and (b) the ACC after reviewing plans and specifications for same. Notwithstanding

the foregoing, nothing herein shall prohibit the combination of two or more Lots into a larger parcel in order to create a site larger than one Lot. Each Lot in the subdivision shall be subject to the easements, if any, which are shown on any plat as affecting such Lot recorded by Declarant while Declarant shall be the Owner of said Lot.

4.02 Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors in accordance with the By-Laws or the terms hereof, and provided that no Owner shall do any act which interferes with the free use and enjoyment of the Common Area and Lakes by all other Owners, every Owner shall have a nonexclusive right, privilege, and easement of use and enjoyment in and to the Common Areas (including, without limitation, the right of pedestrian and vehicular access, ingress and egress over the portion of the Common Area designated for such use and the right of use of recreational facilities as erected and maintained by the Association) and Lakes, which right and easement shall be appurtenant to and shall pass and run with the title to each Lot, subject to the following provisions:

(a) The right of the Association or Declarant, as they in their sole discretion see fit, to borrow money (i) for the purpose of maintaining or improving the Common Areas and Lakes, or any portion thereof, (ii) for acquiring additional Common Areas, (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Areas, (iv) for providing the services authorized herein, or (v) to improve any portion of the Property, and subject to the terms of this Declaration to give as security for the payment of any such loan a security or other security deed instrument conveying all or any portion of the Common Areas.

(b) The rights and easements reserved to Declarant and the Association, its officers and agents in this Article IV of the Declaration.

(c) The right of the Association or Declarant to grant and accept easements as provided in this Article IV and to dedicate or transfer fee simple title to all or any portion of the Common Areas to Fulton County, Georgia, or to any other public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the fee simple title must be approved by a majority of the members of the Association present in person or by proxy at a meeting of the Association and Declarant, for so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

(d) The rights and easements reserved in Section 4.12 hereof for the benefit of the Additional Property.

(e) The rights of the Mortgagee holder of any mortgage is prior in right or superior to the rights, interests, options, licenses, easements, and privileges herein reserved or established.

(f) The right of the Association or Declarant to limit the use of the Lakes and Common Areas, or any recreational facility now or hereafter situated or provided upon the Common Areas, including, not limited to any swim and tennis recreational area, to Owners and their respective families, tenants and guests; the right of the Declarant or the Association to limit the number of guests or tenants of Owners using the Common Areas and Lakes; the right of the Association or Declarant to charge reasonable fees for the actual use of or participation in a particular recreational facility or activity now or hereafter situated or provided upon the Lakes or Common Areas (which charges and fees, unless paid separately, shall be added to and become part of the Assessment or portion thereof next coming due to which the Owner is subject);

(g) The right of the Association and/or Declarant to suspend the right of any Owner to use any portion of the Common Areas and Lakes for any period during which any Assessment against any Lot of any Owner as called for hereunder remains unpaid or during any period of time in which said Owner his designee or any Lot of any such Owner shall be in violation of any provision of this Declaration;

(h) The right of the Association or Declarant to enforce all applicable provisions of any valid agreements of Declarant or the Association relating to the Common Areas and Lakes or any part thereof.

(i) The right of the Association and/or Declarant to create reasonable rules and regulations regarding the use, operation and maintenance of the Common Areas and Lakes;

(j) The right of the Association and/or Declarant to permit persons who are not Owners or Occupants to use and enjoy part or all of the Common Areas and Lakes subject to such limitations, and upon such terms and conditions as the Association and/or Declarant may from time to time establish;

4.03 Delegation of Use. Subject to the terms and provisions of this Declaration and the rules, regulation, fees and charges from time to time established by the Board of Directors, every Owner may delegate, in accordance with the By-Laws, his right of use and enjoyment in and to the Common Area and the improvements thereon, if any, to the members of his family, his tenants, guests, invitees, or occupants.

4.04 Easements for Declarant. During the period that declarant owns any Lot primarily of the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Property, Declarant shall have alienable and transferable right and easements in, on, over, through, under, and across the Common Areas and Lakes for the following purposes:

(a) Installing, maintaining, repairing, and replacing any portions of the Common Areas and Lakes or any improvements thereon as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described by Article II hereof;

(b) For use as construction offices, business offices, sales offices, model homes, and parking spaces in connection therewith for use in its efforts to market Lots;

(c) For the maintenance of such other facilities, equipment and signs as in the sole discretion of Declarant may be reasonably required, convenient or incidental to the completion, improvements, and sale of Lots;

(d) Access, ingress, and egress to the Common Areas and structures thereon for such purposes as Declarant deems appropriate, provided that Declarant shall not exercise such right so as to unreasonably interfere with the rights of Owners in the Development to the use of the Common Areas.

4.05 Title to Common Area. Declarant may from time to time convey to the Association, free of charge, the Common Area or any real or personal property or easements for the common use and enjoyment of the Owners. The Association hereby covenants and agrees to accept from Declarant all such conveyances of real and personal property as Common Areas. Notwithstanding any legal presumption to the contrary, the fee simple title to such real and personal property designated as Common Area or for public use, together with all rights therein, shall be reserved to Declarant until such time as the real and/or personal property is conveyed to the Association or to the municipality or other governmental body, agency or authority.

4.06 Changes in Boundaries. Declarant expressly reserves for itself and its successors and assigns, the right to change and realign the boundaries of the Common Areas, Lakes or any Lots owned by Declarant, including the realignment of boundaries between adjacent Lots owned by Declarant.

4.07 Easements for Utilities and Public Services.

There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the

alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from the State of Georgia, Fulton County, Georgia, and the City of Roswell or any other public authority or agency, public service district, public or private utility, or other person, upon, over, under, and across: (i) all of the Common Areas, (ii) those portions of all Lots as are reasonably necessary, for the purpose of installing, replacing, or repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers, drainage systems, and retention ponds and facilities for the development of any portion thereof, and electrical, gas, telephone, water, and sewer lines, provided that such easements shall not unreasonably affect the developability, marketability or value of any such Lot. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that for so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, the Board of Directors must obtain the written consent of Declarant prior to granting and accepting any such easements. To the extent possible, all utility lines and facilities serving the Development and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or services, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance repair, replacement, and use of such utilities and systems; provided, however, that such utility company or other supplier or services shall take reasonable actions to repair, in a workmanlike manner, any damage caused by such utility company or other supplier or services during the exercise of any rights conveyed under any easement granted hereunder.

4.08 Easements for Walks, Trailers, Signs, and Perimeter Wall. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement upon, over, and across, those strips of land located on the Lots which are within ten (10) feet from the exterior boundary of any such Lot, for the installation, maintenance, and use of sidewalks, traffic directional signs, and related improvements, provided that Declarant shall have no obligation to construct any such improvements. There is further reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable and perpetual right and easement upon, over and across those strips of land which are located within fifteen (15) feet any exterior line of any Lot which is located along the perimeter boundary of the Property, for the

purpose of constructing, installing, replacing, repairing and maintaining a perimeter wall or fence around the perimeter boundary of the Property, provided that Declarant shall have no obligation to construct any such perimeter wall or fence.

4.09 Easement for Association. (a) There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any improvement thereon or portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of the Lot directly affected. No such notice shall be required if in the sole opinion of the Board of Directors any emergency situation shall have developed.

(b) The Association shall have the right and easement in, on, over, through, under and across the Lakes, which said easement shall be perpetual and shall be appurtenant to and shall pass along with title to the Common Areas, for the purposes of maintaining the Lakes.

4.10 Maintenance Easement. Subject to the terms of Section 6.02(b) hereof, there is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any Lot and upon unimproved portions of any Structure for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Property, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such actions.

4.11 Environmental Easement. There is hereby reserved for the benefit of Declarant, the Association and their respective agents, employees, successors, and assigns, and alienable, transferable, and perpetual right and easement on, over, across an unimproved portion of all Lots for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to implement erosion control procedures and practices, the right to drain standing water, and the right dispense pesticides.

4.12 Easements for Additional property. There is hereby reserved in Declarant, and its successors, assigns, and successors-

in-title), for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for (i) pedestrian and vehicular ingress, egress, and parking, across, within, and on all roads, sidewalks, trails and parking facilities, from time to time located within the Common Areas or within easements serving the Common Areas, (ii) the, installation, maintenance, repair, replacement, and use within the Common Areas of security systems and utility facilities and distribution lines, including without limitation drainage systems, storm sewers, and electrical, gas, telephone, water, sewer and master television antenna and/or cable systems lines, and (iii) drainage and discharge of surface water onto and across the Property, provided that such drainage and discharge shall not materially damage or affect the Property or any improvements from time to time located thereon.

4.13 Maintenance Easement Around Lakes. There is hereby reserved for the benefit of Declarant, its successors and assigns, so long as Declarant or its successors and assigns own any Lot within the Property, and the Association, and its respective successors and assigns, an alienable, transferrable and perpetual right and easement, which said easement shall be appurtenant to and shall pass and run with title to the Common Areas, over that portion of the Property and any Lots thereon which is 25 feet in width and running parallel to and bounded on one side by the high water lines of the Lakes, as shown on any plat of the Property prepared for Declarant and recorded with the records of the Clerk of the Superior Court of Fulton County, Georgia, for the purposes of maintaining the Lakes and to maintain a natural buffer area between the Lakes and any residential structures, other than docks. No structures, other than docks or underground improvements shall be permitted within the said easement. Further, no hedge or shrub or other planting which would materially obstruct the physical access to the easement shall be placed or permitted to remain in the easement area.

ARTICLE V

THE ASSOCIATION

5.01 Purposes, Powers and Duties of the Association. The Association has been formed as a non-profit corporation for the purpose of performing certain functions for the common good and general welfare of the inhabitants of the Development. To the extent necessary to carry out such purpose, the Association: (a) shall have all of the powers of the Corporation organized under the Georgia Non-Profit Corporation Code; and (b) shall have the power and duty 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 the Bylaws and Articles of Incorporation of the Association.

5.02 Membership in the Association. Every Owner of a Lot on which no Dwelling is located shall automatically be a Member of the Association and such membership shall be terminated or suspended only as provided in this Declaration. Every Owner who purchases a Lot on which a Dwelling has been constructed shall become a member of the Association upon payment of the Membership Fee as provided in Paragraph 10.02 of Article X hereof.

5.03 Voting Rights.

(a) Each owner shall be entitled to one (1) vote as a Class A member for each Lot owned by said Owner. In the event of multiple owners of a Lot, votes and rights and use of enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by an Owner or an Owner's spouse, but in no event shall more than one (1) vote be cast or more than one (1) office held for each Lot owned by any Owner. When more than one person holds an interest in any lot, the votes for such Lot shall be exercised by those Owners of such Lot as they themselves determine and advise the secretary or an assistant secretary of the Association prior to any meeting of the Association. In the absence of just advice, the vote appurtenant to such Lot shall be suspended in the event more than one person seeks to exercise said vote.

(b) By acceptance of a deed conveying title to a lot, each Owner consents and agrees to diminution of his or her voting interest in the Association by virtue of the submission from time to time of Additional Property or any portion thereof to the terms of this Declaration as provided herein.

5.04 Board of Directors and Administration of the Association. The affairs of the Association shall be managed by the Board. Subject to paragraph 5.07 hereof, the number of Directors, the method of election of Directors and all matters regarding meetings of the Association, members and quorums therefore shall be as set forth in the Bylaws and Articles of Incorporation of the Association.

5.05 Suspension of Membership.

(a) The voting rights of any Owner and the right of enjoyment of the Common Area by any Owner or his or her designee shall automatically be suspended in the event any Owner shall be delinquent in the payment of any Assessment or Owner or his designee or his Lot shall be in violation of any provision of this Declaration after said Owner has received any notices required hereunder.

(b) Any suspension set forth in this paragraph shall be for the balance of the period of which said Owner, his designee or

Lot shall remain in violation, breach or default. No suspension as set forth herein shall prevent the ingress or egress by an Owner or any other proper party to or from a Lot.

5.06 Termination of Membership. Class A membership shall cease only when a person ceases to be an Owner. Class B membership shall cease as prescribed in Paragraph 5.07 hereof.

5.07 Control by Declarant. The Association shall have two classes of voting membership, Class A and Class B. Class A members shall be all the Owners other than the Declarant. Declarant shall be the Class B member. Each Class A member shall have one vote as set forth hereinabove. The Class B member shall have the same number of votes as cumulatively held by all Class A members plus one. The Class B membership shall terminate on the first to occur of any of the following: (i) the Declarant's voluntary termination of Class B membership; (ii) at such time as Declarant no longer owns any Lot primarily for the purpose of sale, or (iii) such time as the Declarant's option to add the additional property or any portion thereof to the Development has expired. At such time as Declarant's class B membership has expired per the terms hereof it shall automatically be deemed a Class A member and shall have one vote for each Lot owned by it. Notwithstanding any other language or provisions to the contrary in this Declaration, the Articles of Incorporation of the Association or the By-Laws of the Association, Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association. The power of the Declarant to appoint or remove directors or officers of the Association as set forth herein shall terminate on the first to occur of any of the following: (i) the Declarant's voluntary termination of the aforesaid power; (ii) at such time as Declarant no longer owns any Lot primarily for the purpose of sale, (iii) such time as the Declarant's option to add the additional property or any portion thereof to the Development has expired or (iv) Declarant's Class B membership shall have expired. Upon the expiration of the period of Declarant's right to appoint or remove Directors and Officers of the Association as set forth herein, such rights shall pass to the Class A members, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board of Directors on behalf of the Association.

ARTICLE VI

MAINTENANCE

6.01 Responsibilities of Owners. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Lots and Structures, together with all other improvements thereon or therein and all lawns, landscaping, and grounds on and within a Lot or Structure shall be

the responsibility of the Owner of such Lot or Structure. Each Owner shall be responsible for maintaining his, her or its Lot or Structure as the case may be in a neat, clean and sanitary condition, and such responsibility shall include without limitation the maintenance and care of all exterior surfaces of all Structures, and all lawns, trees, shrubs, hedges, grass, and other landscaping. As provided in Section 6.02(b) hereof, each owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing maintaining, or cleaning any item which is the responsibility of such Owner but which responsibility such Owner fails or refuses to discharge. No Owner shall (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a Structure or the landscaping, grounds, or other improvements within a Lot unless such decoration, change, or alteration is first approved, in writing, by the ACC as provided in Article XII hereof, or (ii) do any work which, in the reasonable opinion of the ACC, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement of hereditament thereto, without in every such case obtaining the written approval of the ACC.

6.02 Association's Responsibility.

(a) Except as may herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas and Lakes, which responsibility shall include, but not be limited to, the maintenance, repair, and replacement of (i) all access easements and right of ways, walks, trails, parking lots, landscaped areas, recreational areas, entries, streets, custom street lamps, entranceway gates, dams and other improvements made by Declarant or the Association situated within the Common Areas or within easements encumbering Lots and Structures, pursuant to Article IV hereof, (ii) such security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of the Common Areas and all retention areas and facilities, constructed by Declarant wherever located which are not maintained by a public authority, public service district, public or private utility, or other person, and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping and, (iv) all retention areas and (v) any Structures constructed by Declarant within the Common Areas or Lakes. The Association shall not be liable for injury or damage to any person or property (a) caused by the elements or by any Owner of any other person, (b) resulting from any rain or other surface water which may leak or flow from any portion of the Common areas, or (c) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of the Common Areas or any other portion of the Property. No diminution or abatement of

assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

(b) In the event that Declarant or the Board of Directors determines that: (i) any Owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair, or replacement of his, her or its Lot or any other items for which he, she or it is responsible hereunder, or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests, or invitees, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner as the case may be, shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair, or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after notice of such non-compliance, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner, and said cost shall be added to and become a part of the assessment to which such Owner and his Lot is subject and shall become a lien against such Lot. In the event that Declarant undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses.

6.03 Retention Pond. Included in the Common Areas to be maintained by the Association as set forth in Section 6.02 above shall be a retention pond or ponds. Upon conveyance of the Common Areas to the Association by Declarant, the Association shall assume all responsibility for the perpetual maintenance of the such areas. Fulton County law provides that private entities may maintain such areas pursuant to the 1990 Erosion and Sedimentation Control Ordinance. In the event that the Association at any time is dissolved, becomes insolvent or inoperative, or for any reason

fails to fulfill its responsibilities under this paragraph, these areas shall become the responsibility of the Owners. The Association (or the Owners in the event that the Association should fail to fulfill its responsibilities hereunder), shall: (a) preserve the aesthetics of the areas; (b) perform all preventive and remedial maintenance work required to insure continued operation of any appurtenant structures in a safe and continued operation of any appurtenant structures in a safe and fully functional condition; (c) remove or upgrade the retention pond area if deemed necessary by State, local or other authority as a result of change in conditions; (d) maintain proper records of all activities associated with the upkeep of the retention pond area and appurtenances and make such records available to Fulton County as required; (e) obtain permission from the Director of Fulton County Department of Public Works prior to any modifications to the retention appurtenant structures, and land disturbing activities around or within (as defined in the 1990 erosion and sedimentation control ordinance and any amendments thereto) or any large scale release of impounded water; (f) provide county approved alternate facilities to insure predevelopment stormwater runoff quantities if detention capability is lost by breaching or other means; and (g) indemnify and hold harmless Fulton County from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal expenses and fees arising out of or relating in any manner to the retention pond. This Declaration also provides that Fulton County shall have the right to: (i) periodically inspect the retention pond, and structures; and (ii) require specific maintenance or repairs by the Association; and (iii) in the event the Association fails to expeditiously perform its obligations, cause such work to be performed by alternate means and hold a lien on all properties constituting the Association which shall be released only after full payment. Said lien shall be apportioned equally among all owners.

6.04 Owner's Responsibility to Complete Construction. In the event that a Builder or Owner ceases construction on a Structure for more than ninety (90) days, Declarant or the Association shall have the right, but not the obligation, to finish the exterior of the Structure or any landscaping the Association or Declarant in a workmanlike manner and maintain the Lot, keeping it free of trash and debris to prevent devaluation of other Lots in the Development. Costs incurred for finishing the exterior of the Structure, as well as maintenance costs, shall be charged to the Owner by the Declarant or the Association. Both Declarant or the Association shall endeavor, but shall not be required to follow the Builder's or Owner's plans in completing the exterior of the Structure. Should said Owner fail to reimburse Declarant or the Association for the costs incurred, said costs shall become a lien against such Lot.

6.05 Lakes. Upon conveyance of the Common Areas to the Association by Declarant, the Association shall also assume all

responsibility to the perpetual maintenance of the Lakes. Fulton County law provides that private entities may maintain such areas pursuant to the 1990 Erosion and Sedimentation Control Ordinance. In the event the Association at any time it is dissolved, becomes insolvent or inoperative, or for any reason fails to fulfill its responsibilities under this paragraph, the Lakes shall become the responsibility of the Owners. The Association (or the Owners in the event the Association should fail to fulfill its responsibilities hereunder), shall (a) preserve the esthetics of the Lakes; (b) remove or upgrade the Lakes if deemed necessary by state, local or other authority as a result of change in conditions; (c) maintain proper records of all activities associated with the upkeep of the Lakes and make such records available to the appropriate governmental authorities as required; (d) obtain permission from the Director of Fulton County Department of Public Works, prior to any modifications to the dams located in the Common Area or any land disturbing activities around or within (as defined in the 1990 Erosion and Sedimentation Control Ordinance and any amendments thereto), or any large scale release of water from the Lakes; (d) identify and hold harmless Fulton County from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal expenses and fees, arising out of or relating in any manner to the Lakes. Fulton County shall have the right to (i) periodically inspect the Lakes; (ii) require specific maintenance repairs by the Association of the Lakes; and (iii) in the event the Association fails to expeditiously perform its obligations, cause such work to be performed by alternative means and hold a lien on all properties constituting the Association shall be released only after full payment. Said liens shall be apportioned equally among all Owners.

ARTICLE VII

INSURANCE AND CASUALTY LOSSES

7.01 Insurance.

(a) The Association or its duly authorized agents shall have the authority to obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such coverage to be in an amount sufficient to cover the full replacement costs (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repairs or reconstruction in the event of damage or destruction from any such hazard.

(b) The Association or its duly authorized agents shall have the authority to obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

(c) The Association or its duly authorized agents shall have the authority to obtain (i) worker's compensation insurance to the extent necessary to comply with any applicable laws and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

(d) All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owner and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the development shall be vested in the Board of Directors' provided, however, that no mortgage or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement statement negotiations, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(i) All policies shall be written with a company licensed to do business in the State of Georgia and holding a rating of A-XI or better in such financial categories as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best rating possible.

(ii) All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days' prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

7.02 Damage or Destruction to Common Areas. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article VI, shall mean repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. Unless within sixty (60) days following any damage or destruction to all

or a part of the Common Areas, Declarant, for so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, together with the least seventy-five percent (75%) of the total vote of the Association, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the board of directors may levy a special assessment against all Owners, without the necessity of a vote pursuant to section 10.03 hereof, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by fire or other casualty shall be cleared and the Common Areas left in clean, orderly, safe, and attractive condition.

7.03 Damage or Destruction to Lots or Structures. In the event of damage or destruction by fire or other casualty to any Lots or Structures and in the further event that the owner of such Lots or Structures responsible for the repair and replacement elects not to repair or rebuild the damaged or destroyed Lot or Structure, such Owner making such election shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such Lot or Structure in a clean, orderly, safe and attractive condition. Alternatively, should such Owner elect to repair or rebuild such Lot, Structure, or other improvements, such Owner shall repair or repair such Lot, Structure, or improvement to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions, and provisions of this Declaration (including, without limitation, Article XII hereof) and all applicable zoning, subdivision, building, and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently and in a workmanlike manner to conclusion.

ARTICLE VIII

CONDEMNATION

8.01 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development shall be taken by any authority having the power to condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the agreement of at least seventy-five percent (75%) of the total vote of the Association (which conveyance may only occur with the approval of Declarant, so long as Declarant owns a Lot or Structure primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development), the award, or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant, for so long as Declarant owns a Lot or Structure primarily for the purpose of sale or has the unexpired option to add the Additional Property or any seventy-five percent (75%) of the total membership of the Association, shall otherwise agree, the Association shall restore or replace such structures so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefor, in accordance with the plans approved by the Board of Directors, and by Declarant, for so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote pursuant to Article X hereof, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

(b) If the taking or sale in lieu thereof does not involve any structures located in the Common Areas, or if there are net funds remaining after any such restoration, or replacement of such improvements is completed, then such award, proceeds, or net funds shall be retained by and for the benefit of the Association.

(c) If the taking or sale in lieu thereof involves all or any part of a Lot and also includes any part of the Common Areas, then a court of competent jurisdiction shall apportion such award, or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners of any Lot taken for their interest in such Lot; provided, however, such apportionment may instead be resolved by the agreement of (i) the Board of Directors, (ii) Declarant, for so long as Declarant owns a Lot or Structure primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

8.02 Condemnation of Lots or Structures.

(a) In the event that all or any part of a Lot or Structure is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and in the further event that the Owner of such Lot or Structure responsible for the maintenance and repair of such Lot or Structure, as the case may be, elects not to restore the remainder of the Lot or Structure, then such Owner making such election shall promptly clear away any remaining improvements damaged or destroyed by such taking or conveyance and shall leave such Lot or Structure and any remaining undamaged improvements thereon in a clean, orderly, safe, and attractive condition. In addition, if the size or configuration of such Lot or dwelling remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein or their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations, then such Owner shall have the option, after clearing away all remaining improvements or portions thereof and placing the remainder in a clean, orderly, safe, and attractive condition referred to above, of deeding the remaining portion of the Lot or Structure to the Association (at no cost to the Association) as a part of the Common Area, and thereafter any such Owner shall not have any further voting rights, membership rights, or privileges in the Association or with respect to the Development. In turn, said Owner shall not be subject to any further assessments imposed by the Association and payable after the date of such deeding.

(b) In the event that any part of a Lot or Structure is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and if the Owner of such Lot or Structure responsible for the maintenance and repair of such Lot or Structure elects to restore the remainder of the Lot or Structure, such Owner making such election shall restore such remainder of such Lot or Structure as nearly as practicable to the same condition it was in prior to such taking or conveyance and in accordance with all applicable standards, restrictions, and

provisions of this Declaration (including without limitation Article XII hereof) and all applicable zoning, subdivision, building and other governmental regulations. All such work or restoration shall be commenced promptly following such taking or conveyance and shall be carried through diligently to conclusion in a reasonable amount of time.

ARTICLE IX

ADMINISTRATION

9.01 Actions by Board. Except to the extent otherwise required by the provisions of the Official Code of Georgia relating to nonprofit corporations, this Declaration, the By-Laws, or the Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Owners.

9.02 Agreements. Subject to the prior approval of Declarant, for so long as Declarant owns any Lot, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development of the privilege of possession and enjoyment of any part of the Development; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, 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 it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers or duties specifically and exclusively reserved to the directors, officers, or members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and may be bonded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of the Declaration, the By-Laws, or the rules and regulations of the Association.

9.03 Indemnification. The Association shall indemnify every officer and Director of the Association against any and all expenses, including court costs and reasonable attorney fees, reasonably incurred by or imposed upon any officer or Director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the Board of Directors) to which he may be made a party by reason of being or having been an officer or Director at the time such expenses are incurred. This indemnification shall include all expenses as well as attorneys' fees incurred in enforcing by said officers or directors the provisions of this paragraph. The officers and directors shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or nonfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers and directors may also be members of the Association) and the Association shall indemnify and forever hold each such officer and trustee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein, shall not be exclusive of any other rights to which any officer or trustee, or former officer or trustee, may be entitled. The Association shall as a Common Expense maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

ARTICLE X

ASSESSMENTS AND MEMBERSHIP FEES

10.01 Purpose of Assessments and Membership Fees. The Assessments and Membership Fees provided for herein shall be used for the purpose of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Lots located on the Property and in particular for the acquisition, improvement, maintenance and operation of properties, services at facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and Lakes, including, but not limited to the payment of taxes and insurance on the Common Areas and repair, replacement, additions to the Common Areas and Lakes and for the cost, labor, equipment, materials, management and supervision thereof, as well as for the establishment, maintenance of one or more reasonable resort funds to cover unforeseen contingencies or deficiencies, or for emergency expenditures or such other matters as may be authorized from time to time by the Board of Directors.

In determining the fiscal needs of the Association, the Board of Directors of the Association shall be authorized to establish from time to time a reasonable amount which shall be contributed as

part of the annual Assessment for capital purposes. As collected, such capital contributions shall be deposited in a separate capital account with separate records maintained therefor and disbursements therefrom shall be only for capital purposes as determined from time to time by the Board of Directors.

10.02 Creation of Lien and Personal Obligation of Assessments and Membership Fees. Each Owner of a Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance as well as any Occupant who resides at my Lot, is deemed to covenant and agree to pay to the Association: (1) annual assessments, (b) any special assessments for capital improvements and other charges which shall be levied by the Association pursuant to this Declaration against all Lots, (c) individual or specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Additionally, at the time any Lot on which a Dwelling is located is purchased, the Purchaser shall pay a one-time non-refundable Membership Fee of \$650.00 to become a member of the Association. Any such Assessments or Membership Fees, together with any administrative late charges as established from time to time by the Board of Directors, simple interest at the rate of eighteen percent (18%) per annum, and court costs and attorneys' fees actually incurred to enforce or collect such Assessments or Membership Fees, shall be an equitable charge and a continuing lien upon the Lot of any Owner who is responsible for payment. Each Owner shall be personally liable for Assessments or Membership Fees coming due while he is the Owner of a Lot, and his grantee shall take title to such Lot, subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments or Membership Fees shall not apply to the holder of any first priority institutional Mortgage or to the holder of any Mortgage securing a loan made by Declarant. In the event of co-ownership of any Lot, all such co-owners shall be jointly and severally liable for the entire amount of such Assessments or Membership Fees. Assessments or Membership Fees shall be paid in such manner and on such dates as may be fixed by the Board of Directors.

10.03 Computation of Annual Assessments. It shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expense during the coming year, such budget to include a capital need of the Association if necessary. The Board shall cause the budget and the proposed total of the annual and capital assessments to be levied against the Lots for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total annual assessments shall be divided among the Lots equally, so that each Lot shall be subject to equal annual assessments. Upon addition of Additional Property or any

portion thereof to the Development, assessments shall continue to be equal and the Lots being added to the Development shall thenceforth pay assessments which are equal to those imposed upon the Lots previously in the Development. In such event, the Association's budget shall be accordingly revised by the Board, without the necessity of approval by the Owners, to include Common Expenses and assessments related to such additional Lots. The budget and the annual and capital assessments shall become effective unless disapproved at the annual meeting by either (i) the Declarant, so long as Declarant shall maintain its Class B membership, or (ii) at such time as Declarant's Class B status shall terminate, a vote of the majority of the votes of the Owners who are voting in person or by proxy at such meeting. Notwithstanding the foregoing, in the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1967-69=100), or its successor index, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been approved as provided above. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

(a) management fees and expenses of administration, including legal and accounting fees;

(b) utility charges for utilities serving the Common Areas and charges for other common services for the Property, including trash collection and security services, if any such services or charges are provided or paid by the Association;

(c) the cost of any policies of insurance purchased for the Association and its Declaration as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;

(d) the expenses of maintenance, operation and repair of those portions of the Common Areas and Lakes which are the responsibility of the Association under the provisions of this Declaration;

(e) the expenses of maintenance, operation, and repair of amenities and facilities serving the Property, including, but not limited to recreational facilities the maintenance, operation

and repair of which Board from time to time determines to be in the best interest of the Association.

(f) the expenses of the Association which are not defrayed by plan review charges;

(g) ad valorem real and personal property taxes assessed and levied against the Common Areas;

(h) the expenses for conducting recreational cultural, or other related programs for the benefit of the Owners and their families, tenants, guests, and invitees;

(i) such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and

(j) the establishment and maintenance of a reasonable reserve fund or funds (a) for inspections, maintenance, repair, and replacement of those portions of the Common Areas and Lakes which are the responsibility of the Association and which must be inspected, maintained, repaired, or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (c) to cover unforeseen operation contingencies or deficiencies arising from unpaid assessments of liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

10.04 Initial Annual Assessment. The initial annual Assessment shall be \$1000.00 per year.

10.05 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitees of any Owner, including but not limited to expenses incurred as a result of any violation of this Declaration, shall be specifically assessed against such Owners and their respective Lots. The individual Assessments provided for in this Section 10.05 shall be levied by the Board of Directors and the amount and due date of such Assessments so levied by the Board shall be as specified by the Board.

10.06 Effect of Nonpayment; Remedies of the Association. Any Assessments or Membership Fees of an Owner or any portions thereof which are not paid when due shall be delinquent. The due date of any Assessment shall be established by the Board. Any Assessment or Membership Fee delinquent for a period of more than ten (10) days after the date when due shall incur an administrative late charge in an amount as may be determined by the Board from time to time to reimburse the Association for any administrative

costs incurred by the Association as a result of said delinquency, shall become due and payable. The continuing lien and equitable charge of such Assessment or Membership Fee shall include the late charge established by the Board of Directors, interest on the principal amount due at the rate of eighteen percent (18%) per annum, all costs of collection, including reasonable attorneys' fees actually incurred, the total unpaid assessments together with interest and administrative late charges and court costs, and any other amounts provided or permitted hereunder or by law. In the event that the Assessment or Membership Fee remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien.

The equitable charge and lien provided for in this Article shall be in favor of the Association. Each Owner, by his acceptance of a deed or other conveyance to a Lot vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments or Membership Fees as a debt and/or to foreclose the aforesaid lien. The Association shall have the power to bid on the Lot or Structure at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments or Membership Fees provided for herein, and an Owner shall remain personally liable for Assessments, Membership Fees, interest, and late charges which accrue prior to sale, transfer, or other conveyance of his Lot or Structure.

10.07 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association shall, within ten (10) days of the written request and upon payment of such fee as is from time to time determined by the Board of Directors, furnish to any Owner of such Owner's Mortgagee which request same, a certificate in writing signed by he said Treasurer, Assistant Treasurer, or manager setting forth whether the Assessment or Membership Fee for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Assessments or Membership Fees stated therein to have been paid.

10.08 Date of Commencement of Annual Assessments. The annual Assessments and Membership Fees provided for herein shall commence with respect to each Lot on the date of recording of the Declaration and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments and any outstanding special Assessments shall be adjusted for such Lot according to the number of months then remaining in the then fiscal year of the Association and the number of days remaining in the month in which such Lot or Structure is first conveyed. Annual and special Assessments and Membership Fees for Lots in any portion

of the Additional Property hereafter submitted to the terms of this Declaration shall commence on the day of recording of the amendment to the Declaration so submitting such parcels, and annual and special Assessments for each such Lot shall be adjusted according to the number of months then remaining in the fiscal year of the Association and the number of days then remaining in the month in which such Assessments commence.

ARTICLE XI

GENERAL COVENANTS AND RESTRICTIONS

11.01 Covenants and Restrictions.

(a) No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention or control of such erosion and siltation. The ACC may, as a condition of such approval of such plan and specifications, require the use of certain means of preventing and controlling such erosion and siltation. Such means may be include, but not be limited to, physical devices for controlling the runoff and drainage of water and special precautions in grading and otherwise changing the natural landscape and required landscaping as may be otherwise required by the ACC. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the ACC.

(b) Other than by Declarant, or unless necessary in the construction of any Structure previously approved by the ACC, no tree having a diameter of four inches or more (measured from a point two feet above the ground level) shall be removed from any Lot without prior written approval of plans and specifications therefore the ACC as set forth in Article XII hereof. Guidelines relating to the preservation of trees and other natural resources and wildlife upon any Lots may be included in the Design Standards of the ACC.

(c) No outside clothes lines shall be placed on any Lot so as to be visible from any Common Property, or from any abutting street or abutting Lot.

(d) Each owner shall keep and maintain his or her Lot and Structure, as well as all landscaping located therein, in good condition and repair, including, but not limited to, (i) repairing and painting or other appropriate external care of all structures; (ii) the seeding, watering and mowing of all lawns, and (iii) pruning and trimming of all trees, hedges and shrubbery so that same are not obstructive of view by motorists or pedestrians of street traffic.

(e) Recreational or playground equipment shall be placed or installed only upon any Lot so as not to be visible from any street or Common Property unless otherwise authorized by ACC.

(f) On Lots adjacent to lakes, ponds, rivers, streams, creeks, retention ponds or other bodies of water or courses: (i) no boat canal shall be dug or excavated thereon, except with the prior approval of the ACC of plans and specifications for said digging or excavation; (ii) no bulwark, barge, docks, piling, float or other marine structure shall be erected adjacent to any said body of water, without the prior written approval of the ACC of plans and specifications for such structure; (iii) no refuse of any kind shall be placed on or disposed of into adjacent waters; (iv) no boat shall be moored so as to obstruct navigation; (v) no power boat shall be used on the Lakes except as a boat powered by electric motor with a power rating not to exceed 3.5 horsepower;

(g) The pursuit of hobbies or other activities including, but not limited to, assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any abutting or any Lot so as to be visible from any Common Property, street, or abutting Lot.

(h) Residents shall refrain from any act on or use of any Lot which could reasonably cause embarrassment, discomfort or annoyance to the owners and residents of other Lots.

(i) No vehicles not in condition to be operated on the public right-of-way including, but not limited to vehicles with flat tires, broken windows, or crumpled bodies, or unlicensed vehicles may be stored on any Lot so as to be visible from any abutting Lot, abutting street or the Common Property.

(j) No vehicles shall be parked on any street within the Development except during social gatherings of not more than five (5) hours.

(k) No noxious or offensive activity shall be carried on on any Lot, nor shall anything be done thereupon which may become a nuisance to the neighbors, nor shall anything be done thereupon which could result in the cancellation of insurance on any portion of the Common Property or the amenities and facilities thereon.

(l) No lumber, materials, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any Lot except building materials during the course of construction, maintenance, or repair by the Declarant or a Builder of any approved Structure. Except for lawn debris, which may be temporarily stored in plastic bags, trash, garbage or other waste shall not be kept except in sanitary recepticals. Trash recepticals, including but not limited to lawn debris, shall not be

permitted to remain in public view except on days of trash collection. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. If a central trash collection area is designed by the Association, then these areas will be under the control of the Association and all members will abide by the current regulations regarding the use of these trash enclosures.

(m) No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground. Easements have been reserved for sewers, drainage and utility installations and maintenance for such purposes and uses are as shown on the recorded plat for the Development and as further described in this Declaration. Within these easements no Structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

(n) No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Unit, with the exception of dogs, cats, or other usual and common household pets in reasonable number, provided that said pets are not kept, bred, or maintained for any commercial purpose, are not permitted to roam free, and, in the sole discretion of either the Board of Directors or the Declarant, during the period in which Declarant shall own any Lots or shall have the unexpired option to add Additional Property hereto, do not make objectionable noises, constitute a nuisance, and do not endanger the health of Owners or the owner of any property located adjacent to the Community. Dogs which are household pets shall at all times whenever they are outside a dwelling be confined within a pen or on a leash. No structure for the care, housing, or confinement of any pets shall be maintained so as to be visible from neighboring lot, Common Areas or street. The construction of any such Structure shall be subject to the approval of ACC as provided for herein.

(o) Unless and except to the extent that the occupants of a Lot shall have more motor vehicles than the garage serving their Lot can house, all such motor vehicles shall be parked within such garage. Also, the exterior doors of the garage shall be kept closed at all times, except during the times of ingress and egress from the garage.

(p) It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of buildings or grounds on his or her Lot or Lots. No Lot shall be used, in whole or in part, for the storage or any property or thing that will cause such Lot to appear 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 upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. There shall not be maintained any plants or animals or devise 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 property in the Development by the Owners thereof.

(q) All Lots, together with the exterior of all improvements and the landscaping located thereon, shall be maintained in a neat, attractive, and safe condition by their respective Owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing, and caring for roofs, gutters, downspouts, building surfaces, patios, porches, courtyards, and other exterior improvements.

(r) No Dwellings shall contain less than 4,000 square feet of finished living areas, exclusive of open porches, unfinished basements, garages, carports and breezeways.

(s) No chain link fences shall be permitted at any time. The exposed part of retaining walls and foundations shall be made of brick, natural stone, landscaping timbers, railroad ties, or veneered with brick or natural stone. In no event shall any fence or wall be constructed to block right of way view.

(t) Garages may be attached or detached, but must be large enough to accommodate at least three but no more than four large size automobiles. Garage interiors shall be sheetrocked and painted.

(u) No Structure of a temporary nature shall be erected or allowed to remain on any Lot, unless approved in writing by the ACC, and no shack, tent, barn or other structure of a similar nature shall be situated on any Lot, either temporarily or permanently, unless approved in writing by the ACC. Provided, however, that Declarant and builders engaged in construction on the Lots may use sheds or other temporary structure during construction for purposes of construction without the approval of the ACC, and may maintain temporary real estate offices for the sale of Lots or homes in the Development, without the approval of the ACC. No fuel tanks shall be located on any Lots.

(v) No plumbing vents shall be visible from the street on which the Structure is fronting and no heating vent shall protrude on the front side of any roof heating vents shall be painted the same color as the roof on which they are placed. No window air condition units shall be visible from the street.

(w) A detached accessory Structure may be placed on a Lot to be used for a playhouse, a swimming pool, tennis court, a tool shed, dog house or garage; a garage may also be an attached accessory structure. Such accessory Structures shall conform in exterior design and quality to the dwelling on the same Lot. With the exception of a garage that is attached to a Dwelling, an accessory Structure placed on a Lot shall be located so as not to be visible from any Common Areas or street. Such accessory Structures shall also be located within such side and rear setback lines as may be required hereby or by applicable zoning law. No accessory Structure shall be placed on any Lot until the Architectural Control Committee shall have approved the plans and specifications for same, and construction of any accessory structure may not be commenced until complete final plans and specifications shall have been submitted to and approved by the Architectural Control Committee in accordance with the provisions of these covenants. Any accessory Structure shall be constructed concurrently with or subsequent to the construction of the Dwelling on the Lot on which such accessory Structure is located.

(x) No house trailers, mobile homes or motor homes, campers or other habitable motor vehicles of any kind, school buses, motorcycles, trucks or commercial vehicles over one (1) ton capacity (unless said commercial vehicles are within the community temporarily to service existing structures or are used in connection with the construction of structures within the Development), boats or boat trailers shall be kept, stored or parked overnight either on any street or on any Lot, except within enclosed garages, unless approved in writing by the Architectural Control Committee. Improperly parked vehicles may be towed at the owner's expense.

(y) Except during the construction of permanent improvements thereon, no Owner shall excavate or extract earth from any Lot for any business or commercial purpose.

(z) Declarant reserves the right to approve the necessary construction, installation and maintenance of utility facilities, including but not limited to water, telephone, gas, electricity, cable television and sewerage systems, which may be at variance with these restrictions.

(aa) No individual water supply system shall be permitted on any Lot without the prior written approval of the Architectural Control Committee. If such approval is given, such system must be located constructed and equipped in accordance with the requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system.

(bb) Except as otherwise or expressly permitted by this Declaration each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. No more than one (1) single family residence shall be located on any Lot. The use of a portion of a Structure as an office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic. The entertainment, or the enjoyment of the Owner's employees, directors, agents, clients, or customers shall not be considered to be in violation of this covenant if such use does not create regular customer, client or employee traffic. Lease or rental of a Dwelling for residential purposes shall also not be considered to be a violation of this covenant so long as the lease (i) is not for less than the entire Lot and all the improvements thereon, (ii) is for a term of at least six (6) months, and (iii) is otherwise in compliance with rules and regulations as may be promulgated and published from time to time by the Board of Directors. All leases shall be required to be in writing, and, prior to the commencement of any such lease, the Owner shall provide the Secretary of the Association and the managing agent of the Association, if any, with copies of such lease. Any lessee or tenant shall be personally liable in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder. Notwithstanding any provisions in this paragraph to the contrary, Declarant, its successors or assigns, if the right is so transferred by Declarant, shall have the perpetual right to designate in writing to the Association Lots in the Development which may be leased for such period of time as Declarant shall determine, including daily and weekly rentals, and for these Dwellings, Declarants or the Owners shall not be required to supply copies of the leases therefor to the Association.

(cc) No foil or other reflective material shall be used on any windows for sunscreens, blinds, shades or other purpose, nor shall any window-mounted heating or air-conditioned units be permitted. No clothing, rugs, or other items shall be hung on any rails, fence, hedge, or wall. No projections or any type shall be placed or permitted to remain above the roof of any Structure except approved chimneys or vent stacks.

(dd) No signs whatsoever (including, but not limited to, commercial and similar signs) shall, without the prior written approval of plans and specifications therefor by the ACC, be installed, altered or maintained on any Lot, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign; provided, however, that in no event shall any such sign be larger than three square feet in area for any property, corporation, or entity other than Declarant;

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the Home Owners Association;

(iv) such signs as are used to identify and advertise the Property; and

(v) a sign indicating the builder of the residence on the Lot.

Following the consummation of the sale or lease of any Lot the "For Sale" or "For Rent" sign shall be removed immediately.

Notwithstanding the foregoing, the restrictions of this Section 11.01 (dd) shall not apply to Declarant. In addition the Board of Directors on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within the easement areas established in Article IV hereof.

(ee) No television antenna, radio receiver, satellite dish, or other similar device shall be attached to or installed on any portion of the Development, unless contained entirely within the interior of a building or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot, which may unreasonably interfere with the reception of television or radio signals within the Development. Provided, however, that Declarant and the Association shall not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio, or other similar systems within the Development and should cable television services be unavailable and adequate television reception not be otherwise available, then an Owner may make written application to the ACC for permission to install a television antenna.

(ff) Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvements, and sale of Lots and/or Dwellings or the developing of Lots, Dwellings, Common Areas, and the additional Property, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model Dwellings, and the clubhouse, all as may be approved by Declarant provided that the location of any construction trailers of any assignees of Declarant's rights under this Section shall be subject to Declarant's approval. The right to maintain and carry on such facilities and activities shall include specifically the right to use Dwellings as model residences, and to use any Dwelling as an office for the sale of

Lots and/or Dwellings and for related activities, again including the use of the clubhouse and its facilities.

(gg) No Lots or Dwellings may be sold under any time-sharing, time-interval, or similar right-to-use programs.

(hh) All garage sales shall be conducted in accordance with applicable law and such rules and regulations as the Board may establish from time to time concerning the same.

(ii) Construction of all dwellings on a Lot shall be completed within two (2) years of the commencement date of said construction. If any Dwelling on a Lot is not completed within two (2) years of the commencement date of said construction, the Association, its employees and agents, shall have the right, but not the obligations, to enter upon said Lot and to take such action as is necessary to complete construction of said Dwelling, with the costs thereof being assessed against the Owner of such Lot. Such Owner shall be personally liable to the Association for the direct and indirect costs of completion of said Dwelling, and the liability for such costs shall constitute an equitable charge and the same manner as other liens for the improvement of real property of by any other appropriate proceeding in law or in equity. The Association shall give notice to the Owner of such Lot prior to commencing any work.

(jj) None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the more restrictive provision shall govern and control.

(kk) Concrete or concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any Dwelling or Structure constructed or placed on any Lot, and there shall be no fences or walls of any other material which the Architectural Control Committee determines to be incompatible with Dwellings or other Structures of the Property. Notwithstanding the above, the exterior surface of dwellings and accessory structures may be stucco.

(ll) All garages must have doors, and each garage door must be coordinated with the Dwelling to which it is appurtenant.

(mm) All exterior A.C. compressor units shall be ground mounted and screened by fencing or planting or a density and height to hide the unit effectively, which fencing or planting shall first be approved by the Architectural Control Committee.

(nn) Any screen porch which is a part of any Dwelling or accessory Structure must have a dark color screen, and no bright color silver finish screens may be used.

(oo) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.

(pp) Subject to the provisions of Section x of this Article, if the occupants of a Lot shall have more motor vehicles than the garage can house, the Owner of such Lot shall provide concrete offstreet parking pads for each of such additional motor vehicles.

(qq) No permanent utility connections shall be made to any Dwelling or other structure by any utility, public or private, until the ACC has verified general compliance with these covenants and restrictions and with the plans and specifications submitted therefor pursuant to Article XII, and has approved said utility connections in writing. Each Structure on said Lot, when required to be served by a utility, must be served by a water system and other utilities approved by the ACC.

(rr) The intensity of all exterior lights shall be subject to approval of the ACC, and only such exterior lighting as shall have been approved in writing by the Declarant shall be installed or used on any Lot.

(ss) Dead or diseased trees, shrubs, bushes, or other vegetation shall be cut and removed promptly from any Lot by the Owner thereof after such dead or diseased condition is first brought to the attention of the ACC and permission for such cutting and removal has been obtained.

(tt) Except by Declarant there shall be no wholesale clear cutting of shrubbery, trees or other plantings permitted without the prior written consent of the ACC.

ARTICLE XII

ARCHITECTURAL CONTROLS

12.01 Architectural Control Committee - Creation and Composition.

(a) The Architectural Control Committee shall consist of not less than three (3) nor more than five (5) individuals; provided, however, that the Architectural Control Committee shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, all members of the Architectural

Control Committee shall be appointed by the Declarant until the expiration of Declarant's Class B membership. Upon the expiration of Declarant's right to appoint members of the Architectural Control Committee, all members of the Architectural Control Committee shall be appointed by the Board. All costs of operating the Architectural Control Committee shall be borne by the Association.

(b) Each initial member of the Architectural Control Committee shall be appointed for a term expiring on December 31, 1994. Thereafter each member of the Architectural Control Committee shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the Architectural Control Committee by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the Architectural Control Committee shall continue to act and such vacancy shall, subject to the provisions of Section 12.01(a), be filled by either Declarant or the Board at the earliest possible time. Any Architectural Control Committee member may resign at any time by giving written notice of such resignation to the Chairman of the Architectural Control Committee and such resignation shall take effect on receipt thereof by the Chairman. Any member of the Architectural Control Committee may be removed at any time with or without cause by the Declarant (or Board if at such time the Board has the right to appoint members of the Architectural Control Committee).

12.02 Purpose, Powers and Duties of the Architectural Control Committee. The purpose of the Architectural Control Committee is to assure that any installation, construction or alteration of any Structure on any Lot shall be submitted to the Architectural Control Committee for approval: (a) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the Development and (b) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. Additionally, the Architectural Committee shall have all powers and authorities reserved to it in this Declaration. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

12.03 Officers, Subcommittees and Compensation. The members of the Architectural Control Committee shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the Architectural Control Committee as they shall from time to time determine necessary. The members of the Architectural Control

Committee shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the Architectural Control Committee.

12.04 Operations of the Architectural Control Committee.

(a) Meetings. The Architectural Control Committee shall hold regular meetings at least once every three (3) months or more often as may be established by the Architectural Control Committee. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the Architectural Control Committee then in office. Regular and special meetings of the Architectural Control Committee shall be held at such time and at such place as the Architectural Control Committee shall specify. Notice of each regular or special meeting of the Architectural Control Committee shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day of the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the Architectural Control Committee who signs a waiver of notice either before or after the meeting. Attendance of a member of the Architectural Control Committee at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the Architectural Control Committee, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the Architectural Control Committee present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the Architectural Control Committee. In the absence of a quorum, any member of the Architectural Control Committee present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The Architectural Control Committee shall maintain both a record of votes and minutes for each of its meetings. The Architectural Control Committee shall make such records and minutes available at reasonable places and times for inspection by Members. Any action required to be taken at a meeting of the Architectural Control Committee, or any action which may be taken at a meeting of the Architectural Control Committee, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the Architectural Control Committee and be filed within the minutes of the proceedings of the Architectural Control Committee. Such

consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the Architectural Control Committee.

(b) Activities.

(i) The Architectural Control Committee shall adopt and promulgate the Design Standards and shall, as required, make findings, determinations, rules, and orders with respect to the conformity with the Design Standards of plans and specifications submitted to the Architectural Control Committee for approval pursuant to the provisions of this Declaration. The Architectural Control Committee shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

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

12.05 Design Standards.

(a) The ACC from time to time shall adopt formulate and amend and enforce Design Standards for the purpose of:

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

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

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

(iv) insuring the conformity and harmony of exterior design and general quality of all structures in the development.

(b) The ACC shall make a published copy of its current design standards readily available to builders and Owners and to applicants seeking the ACC's approval.

12.06 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way including the painting thereof, which in the sole opinion of the ACC materially changes the exterior appearance of the Structure or Lot, nor shall any landscaping be commenced on any Lot which, in the sole opinion of the ACC, materially changes the landscape design of any Lot, unless plans and specifications therefor shall have been first submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architectural Control Committee, including, without being limited to:

(a) a site plan showing the location of all proposed and existing Structures on the Lot, including building setbacks, open space, driveways, walkways and parking spaces including the number thereof;

(b) foundation plans;

(c) floor plans;

(d) wall section;

(e) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all backfilling and landscaping are completed;

(f) specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors of all proposed Structures and alterations to existing Structures, and also showing front, side and rear elevations thereof;

(g) plans for landscaping and grading;

12.07 Approval of Plans and Specifications. The Architectural Control Committee will make the final approval decision in writing based on siting, exterior elevations, materials and details. Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, one copy of such plans and specifications, as approved, will remain for permanent record with the Architectural Control Committee, and one approved set of plans and specifications bearing such approval, in writing, together with any conditions imposed, will be returned to the builder submitting the same to be retained as the "Builder's Approved Set." Any changes or modifications made to the Builder's Approved Set must be first submitted for the Architectural Control Committee's approval prior to construction of those changes. Approval for use in connection with any Lot or Structure of any plans and specification shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relation to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter; provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

12.08 Disapproval of Plans and Specifications. The Architectural Control Committee shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

(a) the failure to include such information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards;

(c) any other matter which, in the judgment of the Architectural Control Committee, would be likely to cause the proposed installation, construction or alteration of a Structure; (i) to fail to be in conformity and harmony of external design and general quality with the standards as set forth in the Design Standards; or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding structures.

In any case in which the Architectural Control Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Control Committee

shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

12.09 Approval of Builders. Any builder or landscaper, prior to performing any work on any Lot in the Property, must first be approved by the Architectural Control Committee as to financial stability, building or landscaping experience and ability to build or landscape Structures or grounds of the class and type of those which are to be built on the Property. Such approval may be granted or withheld in the sole and uncontrolled discretion of the Architectural Control Committee. No person shall be approved as a builder or landscaper unless such person obtains his income primarily from construction or landscaping of the type which builder or landscaper is to perform upon the Property. No Owner will be permitted to act as his own builder or contractor except where such Owner obtains his income primarily from the construction of the type of Structures to be constructed on the Property and otherwise meets the qualifications for approval by the Architectural Control Committee as hereinabove set forth.

12.10 Obligation to Act. The Architectural Control Committee shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Failure by the Architectural Control Committee to take action within thirty (30) days after receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

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

12.12 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the Architectural Control Committee such violation shall have occurred, the Architectural Control Committee shall notify the Association. If the Board shall agree with the determination of the

Architectural Control Committee with respect to the violation, then the Association shall have the rights set forth in Article X.

12.13 Certification of Compliance.

(a) Upon completion of the installation, construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Control Committee, the Architectural Control Committee shall, upon written request of the Owner thereof or upon the Architectural Control Committee's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the Architectural Control Committee.

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

(c) The issuance of a Certificate of Compliance with respect to any Structure shall in no way be construed to certify to any party that such Structure has been built in accordance with any applicable rule or regulation.

12.14 Fees. The Architectural Control Committee may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to this Declaration. The fee shall be established from time to time by the Architectural Control Committee and published in the Design Standards.

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

ARTICLE XIII

RULE MAKING

13.01 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, and the Common Areas and facilities located thereon. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which shall govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides, and other chemicals. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants, and agents, until and unless any such rule or regulation be specifically overruled, canceled, or modified by the Board of Directors or in a regular or special meeting of the Association by vote of the Owners, in person or by proxy, holding a majority of the total votes in the Association, provided that in the event of such vote, such action must also be approved by Declarant, for so long as Declarant owns any Lot or Structure primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

ARTICLE XIV

ENFORCEMENT

14.01 Right of Enforcement. This Declaration, including, but not limited to the provisions of Article XI, shall inure to the benefit of and shall be enforceable by: (a) The Declarant so long as it is an Owner; (b) the Association; and (c) each Owner, his legal representatives, heirs, successors and assigns.

14.02 Right of Abatement.

(a) In the event of a violation or breach of any provisions of this Declaration the Association or Declarant shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violations or breach within thirty (30) days after the mailing of said written notice, then the Association or Declarant shall have the "Right of Abatement."

(b) The "Right of Abatement," as used herein, means the right of the Association or Declarant, through its agents and

employees, to enter at all reasonable times upon any Lot or improvement thereon as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the cost thereof, including the costs of collection and reasonable attorneys' fees, together with interest thereon at the lower of the highest rate permitted by law or eighteen (18%) percent per annum to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of this Declaration. Such lien shall be superior to any and all charges, liens or encumbrances which may be in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only: (i) such liens for taxes or other public charges as are by applicable law made superior; (ii) the liens created under Article X; and (iii) all deeds to secure debt given to secure a loan the proceeds of which are used (a) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) and (b) to finance the construction, repair or alteration of Structure.

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

14.04 Costs. Should Declarant or the Association employ legal counsel to enforce any provision of this Declaration or any restrictions contained herein, all costs incurred of such enforcement, including court costs and reasonable attorneys' fees as actually incurred by the Association or Declarant in enforcing same shall be paid by the violating Owner. Each Owner agrees to indemnify to hold the Association and/or Declarant harmless from any and all damages, costs or expenses, including reasonable attorneys' fees incurred in enforcing the terms of this Declaration and restrictions arising out of any such Owner's breach of any

provision of this Declaration or any restrictions contained therein.

14.05 Suspension of Common Area Use. The Declarant and/or the ACC shall have the power to suspend any Owner or Occupant's use of the Common Area in the event any said owner or the occupant on any Lot of any said Owner shall be in violation of any provision of this Declaration, including but not limited to any provision of Article X hereof. Such suspension shall remain in place until said violation has been remedied.

ARTICLE XV

AMENDMENTS TO DECLARATIONS

15.01 Amendments by Declarant. Prior to the termination of Declarant's Class B membership, Declarant may amend this Declaration, including, but not limited to the addition of general covenants restrictions to Articles XI hereof, by an instrument in writing filed and recorded in the Records of the Office of the Clerk of the Superior Court of Fulton County, Georgia, without the approval of any Owner or Mortgagee; provided, however, that, with the exception of the addition of any portion of the Additional Property to the terms of this Declaration, (i) in the event that such amendment materially alters or changes any Owner's right to sue and enjoyment of his lot, or the Common Areas as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby, or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereof all of such Mortgagees so affected. Notwithstanding the foregoing to the contrary, the expiration or termination of the Declarant's Class B membership shall not terminate Declarant's right to amend the Declaration for the purpose of submitting the Additional Property or any portion thereof to the provisions of this Declaration as provided in Article III hereof. Any amendment made pursuant to this Section. shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot agrees to be bound by such amendments as are permitted by this Declaration, and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development: (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any

judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable reputable title insurance company to insure title insurance coverage with respect to any Lots or Structures subject to this Declaration, (iii) 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 any Lot, Structure, or other improvements subject to this Declaration, or (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgages on the Lots, Dwellings or Structures.

15.02 Amendments by the Association. Amendments to this Declaration, including, but not limited to the addition of general covenants and restrictions to Article XI hereof, by the Association, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by Owners holding at least two-thirds (2/3) of the total votes in the Association; provided however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee, and (ii) during any period in which Declarant owns a Lot or Structure primarily for the purpose of sale or as the unexpired option under this Declaration to add the Additional Property or any portion thereof to the Development, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

ARTICLE XVI

DURATION

16.01 Duration.

(a) The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of twenty (20) years from and after the date of the recording of this Declaration, provided that any easements which are stated herein shall have a perpetual duration. Upon the expiration of said twenty (20) year period, the Declaration shall be renewed in any manner as provided by Georgia laws then in existence. In the event Georgia law does not provide any stated procedure for extending the term of the Declaration, or, if the law should provide a procedure for the extension of the Declaration, but allow for other methods to be employed, then the Declaration shall be automatically renewed for a successive ten (10) year periods as set forth in paragraph 16.01(b).

(b) In the event, upon the expiration of said twenty (20) year period set forth in 16.01(a), Georgia law does not provide a stated method of extending the Declaration, or in the event Georgia law does provide for such a method, but allows alternate methods to be adopted, then this Declaration shall automatically be renewed for a successive ten (10) year periods as follows: The number of ten (10) yearly renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be renewal or extension of this Declaration, if, during the last year of the initial twenty (20) year period of the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the Association are cast in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the Records of the Clerk of the Superior Court of Fulton County, Georgia, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

16.02 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 after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

16.03 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record on the Records of the Clerk of the Superior Court of Fulton County, Georgia. The captions of each Article and Section hereof as to the contents of each Article and Sections are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Georgia.

16.04 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entitles or to individuals, men, or women, shall in all cases be assumed as though in each case fully expressed.

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

16.06 Right of Third Parties. This Declaration shall be recorded for the benefit of Declarant, the Owners and their Mortgages as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners shall have the right to extend, modify amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

16.07 Notice of Sale, Lease, or Mortgage. In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot or Structure, the Owner must promptly furnish to the Association in writing the name and address of such purchase, lease, mortgagee, or transferee.

16.08 No Trespass. Whenever the Association, Declarant, the Architectural Standards committee, and their respective successors, assigns, agents, or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not be deemed to be a trespass.

16.09 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, or postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated, at the addresses of such Owners' respective Lots or Structures. All notices to the Association shall be delivered or sent in care of Declarant at the following address:

500 Sun Valley Drive, Suite H-3
Roswell, Georgia 30076

or to such other address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant at the above address or to such other address as Declarant may notify the Association. All notices to Club Owners shall be delivered or sent to Club Owner at Declarant's address provided above or to such other address as Club Owner may notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association.

16.10 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability. Neither the board, the directors, the officers of the Association, nor the Declarant shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever of such board, directors, officers or Declarant, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify, defend and hold harmless each of the board, directors, officers and Declarant, and

their respective devisees, legatees, heirs, executors, administrators, legal representatives, successors and assigns, in accordance with the provision of the Bylaws. Nothing herein contained shall make responsible or subject to liability any successor to the Declarant by operation of law or through purchase of the Declarant's interest in the Submitted Property (or any part thereof) at foreclosure, sale under power, or by deed in lieu of foreclosure, for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the time such successor succeeded to the interest of the Declarant.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed in its name and under its seal, on the day and year first above written.

"DECLARANT"

HABERSHAM INVESTMENT &
DEVELOPMENT CORPORATION

By: Robert M. Button L.S.
Robert M. Button, Vice President

(SEAL)

Signed, sealed and delivered
in the presence of



Witness

Notary Public

Leila Johnson

calabro\stonegate\covenant

Notary Public, Fulton, Georgia.
My Commission Expires March 3, 1985



ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 119, 120, 179, 180 and 181 of the 1st District, 2nd Section of Fulton County, City of Roswell, Georgia, containing 70.15 acres, more or less, and being more particularly described according to a boundary survey for Habersham Investment & Development Corp., the Northside Bank & Trust Company, Douglass (aka Douglas) G. Whitney and First American Title Insurance Company, dated February 11, 1994, last revised June 28, 1994, prepared by John E. Didicher, Georgia Registered Land Surveyor No. 1905 of Civil Design, Inc., and being more particularly described according to said boundary survey as follows:

BEGINNING at a one-half inch rebar iron pin found on the easterly right-of-way line of Stroup Road (60-foot wide right-of-way) located a distance of 485.09 feet northerly as measured along said right-of-way from an iron pin found at its intersection with the south line of Land Lot 120, and from said POINT OF BEGINNING run thence along the easterly right-of-way line of Stroup Road North 00° 14' 33" West a distance of 668.50 feet to a one-half inch rebar iron pin found; running thence North 89° 41' 27" East a distance of 332.10 feet to an iron pin set; running thence North 00° 18' 33" West a distance of 539.50 feet to an iron pin set; running thence North 89° 39' 53" East a distance of 407.62 feet to an axel found on the southwesterly right-of-way line of Bowen Road (having a 60-foot wide right-of-way); running thence southeasterly along the southwesterly right-of-way of Bowen Road the following courses and distances: South 28° 21' 18" East a distance of 4.16 feet; South 30° 40' 05" East a distance of 54.55 feet; South 32° 53' 08" East a distance of 52.35 feet; South 34° 58' 10" East a distance of 50.26 feet; South 37° 20' 10" East a distance of 52.64 feet; South 39° 23' 17" East a distance of 55.16 feet; South 40° 59' 45" East a distance of 53.93 feet; South 41° 41' 37" East a distance of 53.20 feet; South 42° 00' 52" East a distance of 53.66 feet; South 41° 54' 30" East a distance of 52.45 feet; South 42° 09' 45" East a distance of 157.18 feet; South 42° 18' 22" East a distance of 1,122.09 feet; South 42° 45' 42" East a distance of 53.44 feet; and South 42° 56' 25" East a distance of 38.34 feet to a one-half inch rebar iron pin found on the east line of Land Lot 180; thence leaving said right-of-way and running South 01° 57' 23" East along the land lot line common to Land Lots 180 and 191 a distance of 81.53 feet to an axel found; continuing thence South 01° 10' 15" East along the line common to Land Lots 180 and 191 and then the line common to Land Lots 179 and 192 a distance of 287.07 feet to a one-half inch rebar iron pin found; thence South 03° 11' 31" East a distance of 189.19 feet to a one-half inch rebar iron pin found; thence South 01° 09' 43" East a distance of 195.22 feet to a one-half inch rebar iron pin found; thence South 01° 08' 09" East a distance of 156.21 feet to a one-half inch rebar iron pin found; thence South 88° 30' 30" West a distance of 199.77 feet to a one-inch iron pin found; running thence South 73° 43' 00" West along the property now or formerly owned by Bobby L. and Jimmie Lou Jones a distance of 1,165.62 feet to a one-inch iron pin found; running thence North 02° 23' 04" West a distance of 956.26 feet along the land lot line common to Land Lots 121 and 179 to a one-half inch rebar iron pin found at the corner common to Land Lots 120, 121, 179 and 180; running thence along the line common to Land Lots 120 and 121 South 89° 14' 04" West a distance of 208.39 feet to a one-half inch rebar iron pin found; running thence North 00° 37' 02" West a distance of 473.92 feet along property now or formerly owned by Ted H. Stewart and then Ronald W. Young to a one-half inch rebar iron pin found; running thence South 89° 19' 58" West a distance of 407.25 feet along the property now or formerly owned by Ronald W. Young to a one-half inch rebar iron pin found on the easterly right-of-way of Stroup Road, being THE POINT OF BEGINNING.