

**DECLARATION OF PROTECTIVE COVENANTS
FOR
THE MONTVALE COMMUNITY**

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

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EXHIBIT

NAME

- | | |
|----|---|
| A. | Property Submitted |
| B. | Recreational Facilities Property |
| C. | Landscape Easement |
| D. | Bylaws of Montvale Homeowners Association, Inc. |

DECLARATION OF PROTECTIVE COVENANTS
FOR
THE MONTVALE COMMUNITY

This Amended and Restated Declaration of Protective Covenants for Evonvale and Declaration of Protective Covenants for Montgrove (hereinafter the "Declaration") is made on the day and year set forth below. By virtue of the recording of this Declaration, the property described on **Exhibit "A", Exhibit "B", and Exhibit "C"**, attached hereto and incorporated herein by this reference, (hereinafter the "Property") is hereby submitted and made subject to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.* and is hereby continued to be subject to this Declaration. By virtue of the recording of this Declaration, the Property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of the Georgia Property Owners' Association Act and this Declaration, and every grantee of any interest in said Property, by acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of the Georgia Property Owners' Association Act and this Declaration and shall be deemed to have consented to same. This Declaration shall apply to, govern, control and regulate the sale, resale or other disposition, acquisition, ownership, use and enjoyment of the Property and the improvements located thereon, and all of its provisions shall be and are covenants to run with the Property and shall be binding on the present owners of said Property and all of their successors and assigns and all subsequent owners of the Property and improvements located thereon, together with their grantees, successors, heirs, executors, administrators, devisees, and assigns.

ARTICLE I
Definitions

The following words, when used in this Declaration or in any Supplementary Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) **Architectural Review Committee**" shall mean the architectural review committee appointed by the Board of Directors of the Association.
- (b) **Association**" shall mean Montvale Homeowners Association, Inc., a nonprofit Georgia corporation, its successors and assigns.
- (c) **Board of Directors**" or **Board**" of the Association shall mean the appointed or elected body, as applicable, having its normal meaning under Georgia law.
- (d) **Bylaws**" shall refer to the Bylaws of Montvale Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference.
- (e) **Common Property**" shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners, specifically including the Recreational Facilities and the Landscape Easement.
- (f) **Community**" shall mean and refer to the designated subdivisions of property subject to this Declaration and comprised of two (2) communities, specifically Evonvale and Montgrove, the Common Property and such additions thereto as may be made by the Association by Supplementary Declaration of other real property.
- (g) **Community-Wide Standard**" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the

Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the then Declarant.

(h) **"Declarant"** shall mean and refer to LPC of S.C., Inc., a South Carolina Corporation.

(i) **"Lot"** shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association.

(j) **"Member"** shall mean and refer to every person or entity who holds a membership in the Association.

(k) **"Mortgage"** shall mean any mortgage, deed to secure debt, deed of trust, and any and all other similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

(l) **"Mortgagee"** shall mean the holder of a Mortgage.

(m) **"Neighborhood"** shall mean and refer to designated subdivisions of property subject to this Declaration and comprised of one (1) or more Lots, specifically including Evonvale and Montgrove. When used herein, the terms "Evonvale" and "Montgrove" shall mean and refer to the respective Neighborhood.

(n) **"Neighborhood Assessment"** shall mean and refer to assessments for common expenses provided for herein or by any Supplemental Declaration or amendment hereto which are used for the purposes of promoting the recreation and enjoyment of Owners within a specific Neighborhood as from time to time determined by the Board of Directors.

(o) **"Occupant"** shall mean any Person occupying all or any portion of a residence or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

(p) **"Owner"** shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(q) **"Person"** means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

(r) **"Residential Unit"** shall mean and refer to any building, structure, or improvement on any Lot intended for use and occupancy as a residence and all appurtenances thereto including, but not limited to, all garages, porches, balconies, accessory structures, decks, overhangs, foundations, extensions and projections therefrom.

(s) **"Rules and Regulations"** shall mean the rules and regulations of the Association as may be adopted, amended and repealed, from time to time, by the Board of Directors of the Association.

(t) **"Supplementary Declaration"** means an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

(u) **"Total Association Vote"** means all of the votes attributable to members of the Association.

ARTICLE II
Statutory Provisions

This Declaration is made pursuant to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.*, as the same may heretofore or hereafter be supplemented, amended or modified (hereinafter the "Act") and the Property described on Exhibit "A", Exhibit "B", and Exhibit "C", attached hereto and incorporated herein by this reference, is hereby submitted and made subject to the Act.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO CREATE A CONDOMINIUM REGIME SUBJECT TO THE GEORGIA CONDOMINIUM ACT, O.C.G.A. SECTION 44-3-70, *ET SEQ.*

ARTICLE III
Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot. In the event that fee title to such a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. Ownership of such Lot shall be the sole qualification for membership. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one vote be cast nor office held for each Lot owned.

Section 2. Multiple Owners. No Owner, whether one or more persons, shall have more than one membership per Lot; provided, however, multiple use rights for multiple Owners of a Lot shall exist subject, however, to the right of the Board to regulate and limit use by multiple Owners. The rights and privileges of membership, including the right to vote, may be exercised by a Member, the Member's spouse or other family member.

Section 3. Voting. Members shall be entitled to one vote for each Lot owned. When more than one Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one Person seeks to exercise it.


ARTICLE IV
Assessments

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, common benefit, and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; (c) Neighborhood Assessments as set forth herein; and (d) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, fines and other charges lawfully assessed by the Association against any Owner or Lot as provided for in this Declaration or the Act shall, from the time such sums become due and payable, be the personal obligation of the Owner and constitute a lien in favor of the Association on the Lot prior and superior to all other liens whatsoever except: (i) liens for ad valorem taxes on the Lot; (ii) the lien of any first mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of the original Declarations of Protective Covenants for Evonvale and

Montgrove; and (iii) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot. The recording of this Declaration shall constitute record notice of the existence of the lien, and no further recordation of any claim of lien for assessments, fines or other charges shall be required. No Owner shall be exempted from any liability for any assessment for any reason whatsoever, including, without limitation, abandonment, nonuse or waiver of the use and enjoyment of his or her Lot or any part of the Common Property. The grantee in a conveyance of a Lot shall be jointly and severally liable with the grantor therefore for all unpaid assessments, fines and other charges against the latter up to the time of the conveyance without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee; provided, however, that if the grantor or grantee shall request a statement from the Association as provided herein, such grantee and his or her successors, successors-in-title and assigns shall not be liable for the Lot conveyed which is subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement. Notwithstanding the foregoing, in the event that the holder of a first mortgage or secondary purchase money mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money mortgage is the seller of the Lot), or any other person acquires title to any Lot as a result of foreclosure of any such mortgage, such holder or other person and his or her successors, successors-in-title and assigns shall not be liable for, nor shall the Lot be subject to any lien for any assessments or charges under this Declaration chargeable to the Lot on account of any period prior to such acquisition of title; provided, however, that such unpaid share of an assessment or assessments shall be deemed to be a common expense collectible from all of the Owners, including such holder or other persons and his or its successors, successors-in-title and assigns.

Any Owner, mortgagee of a Lot, person having executed a contract for the purchase of a Lot, or lender considering the loan of funds to be secured by a Lot, shall be entitled upon request to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, together with late charges and interest applicable thereto against that Lot. Such request shall be in writing, shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. Failure on the part of the Association, within five (5) business days from the receipt of such request, to mail or otherwise furnish such statement regarding amounts due and payable at the expiration of such five (5) day period, with respect to the Lot involved, to such address as may be specified in the written request therefor, shall cause the lien for assessments to be extinguished and of no further force or effect as to the title or interest acquired by the purchaser or lender, if any, as the case may be, and their respective successors and assigns, in the transaction contemplated in connection with such request. The information specified in such statement shall be binding upon the Association and upon every Owner. Payment of a fee not exceeding Ten and No/100 Dollars (\$10.00) (or such larger amount as may be permitted, from time to time, by the Act) may be required as a prerequisite to the issuance of such a statement.

 Annual assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in annual installments on such date as is determined by the Board of Directors.

Section 3. Computation. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the assessments to be levied against each Lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. (The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote; provided, however, if a quorum is not obtained at the meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the members at least thirty (30) days prior to the proposed effective date thereof. Unless the proposed budget is disapproved at a special meeting requested by the members, as provided in the By-Laws for special meetings, the new budget and assessment shall take effect without a meeting of the members.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy, in any calendar year, special assessments in any year, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Property, including the necessary fixtures and personal property related thereto, or any lawful expense or obligation of the Association, so long as the total amount of special assessments allocable to each Lot does not exceed \$300.00 in any one fiscal year. Except as provided in Article VIII, Section 3 hereof, any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge not in excess of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount of such delinquent assessment or installment. The lien and personal obligation for assessments shall also include interest at the rate of ten percent (10%) per annum (or such higher amount as may be permitted by the Act from time to time) on any assessment, installment, delinquency or late charge from the date such sum was first due and payable. The lien and personal obligation for assessments shall further secure and include costs of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Lot, and reasonable attorney's fees actually incurred. The lien and personal obligation for assessments shall also include the fair rental value of the lot from the time of the institution of suit until the sale of the Lot at foreclosure or until the judgment rendered in such suit is otherwise satisfied.. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within ten (10) days after written notice is given to the Owner to make such payment, the entire unpaid balance of the assessment may be accelerated at the option of the Board and declared due and payable in full, and proceedings may be instituted to enforce such lien and personal obligation. Such notice shall be sent by certified mail, return receipt requested, to the Owner both at the address of the Lot and at any other address or addresses the Owner may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. Nothing in this paragraph shall be construed to prohibit actions maintainable pursuant to Section 44-3-223 of the Act or otherwise pursuant to this Declaration.

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

All payments shall be applied first to costs, then to late charge, then to interest and then to delinquent assessments.

Section 6. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article XII Section 1 of this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible under Article V, Sections 1 and 2 of this Declaration shall be specific assessments.

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The Board may also specifically assess Owners for the following Association expenses (except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein):

- (a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received.
- (b) Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Section 7. Neighborhood Assessments. There are hereby created Neighborhood Assessments for common expenses as may from time to time be authorized by the Board of Directors. Neighborhood Assessments shall, from and after the respective Commencement Date relating to a respective Lot, be levied against the respective Owner in accordance with the Neighborhood within which the respective Lot is located for whose benefit expenses are incurred, such as expenses related to social activities for that particular Neighborhood. Neighborhood Assessments established in one Neighborhood do not need to be equal to Neighborhood Assessments established in another Neighborhood.

→ Section 8. Capital Reserve Fee. Upon each and every transfer or conveyance of a Lot to any person other than the spouse of the Owner or an Owner of a Lot subjected to this Declaration, or to a trust if the Owner or his spouse are the beneficiaries thereof, (the transferee or grantee becoming the Owner of the Lot at each such transfer or conveyance shall be obligated to pay to the Association, (in addition to all other assessments levied under this Declaration, simultaneously upon such transfer or conveyance, a non-refundable assessment in an amount equal to the then current year's annual assessment (hereinafter the "Capital Reserve Fee").) All Capital Reserve Fees collected by the Association shall be deposited by the Association in a capital reserve account which shall be for the purpose of funding capital costs required to repair or replace improvements which are part of the Common Property. The Capital Reserve Fee may be increased by a majority vote of the Board of Directors. The Capital Reserve Fee, together with any late fees, interest, court costs and attorney's fees, also shall be the personal obligation of the person who was the Owner of such Lot immediately preceding the transfer or conveyance, who shall be jointly and severally liable for such portion thereof as may be due and payable by the transferee or grantee at the time of the transfer or conveyance; provided, however, any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in a First Mortgage shall not be liable for the Capital Reserve Fee. Capital Reserve Fees shall be due and payable for any Lot from and after the recording of this Amendment. For purposes of this section, "First Mortgagee" shall mean and refer to the holder of a first priority mortgage. The Capital Reserve Fee shall, from the time it becomes due and payable, be a charge against and continuing lien upon the Lot in favor of the Association and for the benefit of all Lot Owners. In the event of non-payment of the Capital Reserve Fee, the Association shall be granted all other remedies relating to such non-payment as provided to the Association in the Declaration for non-payment of assessments. Capital Reserve Fees shall be due and payable for any Lot Owner from and after the recording of this Amendment. The Fee shall be collected in the same manner provided in the Declaration for the collection of all assessments.

Section 9. Fiscal Year. Unless otherwise determined by the Association, the Fiscal Year of the Association shall begin on January 1 of each year, and shall end on December 31 of the same year.

ARTICLE V

Maintenance; Conveyance of Common Property to Association

Section 1. Association's Responsibilities. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall also maintain: (a) all entry features for the Community including the expenses for water and electricity, if any, provided to all such entry features; (b) streetscapes located at other street intersections within the Community; (c) all cul-de-sac islands located in the Community; (d) landscaping originally installed by the then Declarant whether or not such landscaping is on a Lot or public right-of-way, including, without limitation, that certain landscaped area along Brookwood Drive as shown on any plat for the Community recorded by the then Declarant in the land records of the county in which the Community is located; (e) all drainage and detention areas

which were originally maintained by the then Declarant, to the extent such areas are not maintained on an ongoing basis by a local governmental entity; and (f) all property outside of Lots located within the Community which was originally maintained by the then Declarant.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community, where the Board has determined that such maintenance would benefit all Owners. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible real or personal property.

The Association may pay for the services of any person or entity to manage its affairs or any part thereof and any other personnel as the Association's Board of Directors shall determine to be necessary or desirable for the proper operation of the Community. Such personnel may be furnished or employed directly by the Association or by any person or entity with which it contracts. The Association may obtain and pay for legal, accounting and any other professional services necessary or desirable in connection with the operation of the Community or the enforcement of this Declaration, the By-Laws and Rules and Regulations. The Association may, but shall not be required to, arrange as an Association expense to furnish trash collection, security, cable television and other common services to each Lot within the Community. All costs and expenses incident to any of the foregoing shall be a common expense.

In the event that the Association determines that the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

The Association shall not be liable for any injury or damage to any person or property (a) caused by the elements, (b) caused by any Owner or any third party, or by their respective guests, invitees, licensees, successors or assigns, (c) resulting from any rain or surface water which may leak or flow from any portion of the Common Property, or (d) caused by the failure of the Association to maintain the Common Property, unless such failure is caused by the willful misconduct or gross negligence of the Association. The Association shall not be liable to any Owner for any loss or damage, by theft or otherwise, of any property of such Owner or his respective guests, invitees, licensees, successors or assigns. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for the 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 governmental authority, it being acknowledged by each Owner that the obligation to pay assessments pursuant to this Declaration is a separate and independent covenant on the part of each Owner. Such maintenance shall include, without limitation, prompt removal of all litter, trash, refuse and waste, reasonable maintenance, repair and replacement of all his Improvements and all exterior portions of his Residential Unit; maintenance of all grass and landscaping on a regular basis; tree and shrub pruning; watering of landscaped areas; keeping lawn and gardening areas alive, free of weeds and in attractive condition; keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damage to all Improvements, including the Residential Unit on his Lot.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

Section 2. Owner's Responsibility. Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a good, clean and attractive condition and repair and in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance shall include, without limitation, prompt removal of all litter, trash, refuse and waste, reasonable maintenance, repair and replacement of all his Improvements and all exterior portions of his Residential Unit; maintenance of all grass and landscaping on a regular basis; tree and shrub pruning; watering of landscaped areas; keeping lawn and gardening areas alive, free of weeds and in attractive condition; keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damage to all Improvements, including the Residential Unit on his Lot.

In the event that the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement at the Owner's sole cost and expense. (The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

Section 3. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction on the Lots which shall serve and separate any two adjoining Lots shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall may restore it, and if the other Owner or Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator and the decision by a majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE VI
Use Restrictions and Rule

Section 1. General. This Article sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may only be amended in the manner provided in Article XII, Section 4 hereof regarding amendment of this Declaration. In addition, the Board may, from time to time, without consent of the members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, cancelled, or modified in a regular or special meeting by a majority of the Total Association Vote.

Section 2. Residential Use. Each Lot shall be used for residential purposes only. No trade or business of any kind may be conducted in or from a Lot, except for business use ancillary to a primary residential use so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the

exterior of the Residential Unit; (b) the business activity does not involve Persons coming onto the Lots who do not reside in the Community or door-to-door solicitation of Owners of Lots; (c) the business activity conforms to all zoning requirements for the Lot; and (d) the business activities are consistent with the resident character of the Community and does not constitute a nuisance, a hazardous or offensive use or threaten the security or safety of other Owners of Lots, as may be determined in the sole discretion of the Board of Directors. Leasing of a Lot shall not be considered a business or business activity. The Board may issue rules regarding permitted business activities.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether; (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

Section 3. Architectural Standards. To preserve the architectural appearance of the Community, no exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except AS such is approved in accordance with this Section, or as is otherwise expressly permitted herein. (No exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by the Board of Directors or an appointed Architectural Review Committee ("ARC").) If an ARC is created, the Board shall appoint the members of the ARC, which shall be comprised of at least three (3) representatives. A majority vote of the ARC is required for approval or disapproval of submitted plans and specifications. The ARC may be established such that it is divided into two subcommittees, with one subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. The Board may employ architects, engineers, or other Persons as it deems necessary to enable the ARC to perform its review. The ARC may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified Persons which shall have full authority to act on behalf of the committee for all matters delegated. Any application to the Board of Directors or an appointed architectural committee shall be in writing and shall provide such information as the Board of Directors may reasonably require. [The Board of Directors, or its designated architectural committee, shall have the right to adopt reasonable architectural standards with respect to construction, additions or alterations as to any portion of the Property which standards may provide for a review fee and the same shall be enforceable as if set forth herein. Written design guidelines and procedures may be promulgated for the exercise of this review, which guidelines may provide for a review fee. The Board shall appoint the members of the ARC.

If the ARC fails to approve or to disapprove submitted plans and specifications within sixty (60) days after the plans and specifications have been submitted to it, the foregoing will be deemed approved. However, all activities commenced pursuant to plans which have been deemed approved shall be consistent with such plans.

As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any change, modification, addition, or alteration. In the discretion of the ARC, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The ARC shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purposes of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in Article XII, Section 1 hereof, record in the appropriate land records a notice of violation naming the violating Owner.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ARC, THE MEMBERS THEREOF, NOR THE ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM

SUCH PLANS AND SPECIFICATIONS. NEITHER DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM SHALL BE LIABLE FOR DAMAGES TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS OR SPECIFICATIONS AND EVERY OWNER AGREES THAT SUCH PERSON OR OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST THE ASSOCIATION, THE ARC, THE BOARD, OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM TO RECOVER ANY DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

Section 4. Appeal Process. In the event proposed plans, details and specifications are disapproved by the ARC, an Owner may request a hearing by forwarding a written explanation of the basis of the appeal and requesting a hearing by the ARC. The ARC shall evaluate the written request and determine if there is sufficient reason for a hearing. The ARC's decision will be forwarded to the Owner in writing. In the event an Owner is not satisfied with the results of the appeal to the ARC, the Owner may appeal to the Board of Directors using the same written procedure as above. The Board shall be required to hear the Owner's appeal, and must consult with the ARC prior to making its decision. The Board's decision will be forwarded to the Owner in writing and shall be final.

Section 5. No Waiver. Each Owner acknowledges that the members of the Board and the ARC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The Approval of either the Board or the ARC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board or the ARC shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 6. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the ARC except (a) not more than one "For Sale" and "For Rent" sign consistent with the architectural standards established in accordance with this Article; (b) security signs consistent with the architectural standards established in accordance with this Article; and (c) any signs required by legal proceedings. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs. The provisions of this Section shall not apply to any Person holding a Mortgage who becomes an Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or as transferee pursuant to any proceeding in lieu thereof.

Section 7. Vehicles. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans and automobiles. Vehicles shall not be parked on any streets within the Community. Vehicles shall not be parked on the Common Property or on any portion of a Lot other than the driveway and the garage. Unless and except to the extent that the Occupants of a Lot shall have more vehicles than the number of parking areas serving their Lot, all vehicles shall be parked within such parking areas. Where the Lot contains a garage, "parking areas" shall refer to the number of garage parking spaces. All parking shall be subject to such rules and regulations as the Board may adopt.

All single-family detached homes shall contain a garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except during the times of ingress and egress from the garage.

No towed vehicle, boat, boat trailer, recreational vehicle, motor home, mobile home, bus, truck with camper top, commercial vehicle, truck over one ton capacity, motorcycle, minibike, scooter, go-cart or similar recreational vehicle shall be permitted on any Lot, except if kept in an enclosed garage, for periods longer than 48

consecutive hours (the intent of this provision is that the aforementioned vehicles may not be stored on a Lot except if in a garage and the temporary removal of such vehicle from a Lot to break the continuity of the 48 consecutive hours shall not be sufficient to establish compliance with this restriction). Any such vehicle shall be considered a nuisance and may be removed from the Community. Trucks with mounted campers which are an Owner's or Occupant's primary means of transportation shall not be subject to the restrictions contained in this paragraph provided such vehicles are used on a regular basis for transportation and the camper is stored out of public view upon removal from the vehicle.

No vehicle may be left upon any portion of the Community, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Any such vehicle shall be considered a nuisance and may be removed from the Community.

No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.

Section 8. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing.

Section 9. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 10. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, except that dogs, cats, or other usual and common household pets in reasonable numbers, as determined by the Board, may be kept on a Lot; provided, however, those pets which are permitted to roam free or in the sole discretion of the Board endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or Occupants of other Lots or the owner of any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

Section 11. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to 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 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. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

Section 12. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

Section 13. Antennas. The installation and maintenance of television antennas, radio receivers, radio receiver equipment, satellite dish equipment and other similar devices shall be subject to such Rules and Regulations as are adopted from time to time by the Board of Directors and all such Rules and Regulations shall be enforceable as if fully set forth herein.

Section 14. Tree Removal. No trees shall be removed from any portion of the Community without the prior written consent of the ARC except for (a) trees that are located within ten (10) feet of a drainage area, a septic field, a sidewalk, a residence or a driveway; and (b) diseased or dead trees.

Section 15. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. A perpetual easement was reserved for the benefit of the Association and its respective successors and assigns by the then Declarant across the Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 16. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 17. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment, air conditioning compressors and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community.

Section 18. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the ARC. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 19. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns and small firearms of all types.

Section 20. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the ARC. The ARC may issue guidelines detailing acceptable fence styles or specifications, but in no event may a chain link or barbed wire fence be approved.

Section 21. Utility Lines. Except as may be permitted by the ARC, no overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction.

Section 22. Air-Conditioning Units. Except as may be permitted by the ARC, no window air conditioning units may be installed.

Section 23. Lighting., Except as may be permitted by the ARC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on the Lot; (b) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; and (d) seasonal decorative lights.

Section 24. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags and similar items must be approved by the ARC.

Section 25. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARC.

Section 26. Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without the prior written consent of the ARC and in no event shall any above-ground swimming pool be permitted.

Section 27. Gardens, Play Equipment and Pools. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals), or pool shall be constructed, erected or maintained upon any Lot unless the type and location thereof has been previously approved by the ARC.

Section 28. Mailboxes. All mailboxes located on Lots shall be of a similar style approved by the ARC and shall be installed initially by the original home builder. Replacement mailboxes may be installed after the type has been approved in writing by the ARC.

Section 29. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the dwelling or any fence located on a Lot, must be approved by the ARC.

Section 30. Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

Section 31. Exterior Security Devices. No exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Lot. Signs placed on the Lot or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior security device.

Section 32. Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the then Declarant on any Lot, or any part of any easement area associated therewith out the prior written consent of the ARC.

Section 33. Single Family Residence. None of the Lots may be improved, used or occupied for other than private, single family resident purposes, other than the Common Property. No Lots or residences may be used as "foster care facilities," "retarded care facilities," "nursing homes," "rest homes," "retirement homes," "sanitariums" or "sanatoriums."

Section 34. Temporary Structures. No structure of a temporary character, whether a trailer, mobile home, tent, shack, garage, barn or other out building, shall be permitted, maintained or used on any Lot at any time as a residence or for any other purpose, either temporarily or permanently.

ARTICLE VII

Insurance and Casualty Losses

Section 1. Insurance on Common Property. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain or cause to be obtained insurance for all insurable improvements whether or not located on the Common Property which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability insurance shall have coverage in the amount of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence for bodily injury or property damage and Two Million and No/100 Dollars (\$2,000,000.00) of aggregate coverage.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

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

- (a) All policies shall be written with a company authorized to do business in Georgia.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.
- (d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.
- (e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - (i) A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents and guests;
 - (ii) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - (iii) That no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;
 - (iv) That no policy may be cancelled, subjected to non-renewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;
 - (v) That any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
 - (vi) That no policy may be cancelled, subjected to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be determined in the directors' best business judgment, and, if available, shall at least equal three months' assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled, subjected to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and

flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs ("VA"), or the U.S. Department of Housing and Urban Development ("HUD").

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association does not acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment.

Section 3. Damage and Destruction – Insured by Association.

(a) In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement 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 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 Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Board of Directors shall have the enforcement powers specified in Article XII, Section 1 of this Declaration necessary to enforce this provision.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 4. Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days,

they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XII, Section 1 of this Declaration.

Section 5. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

ARTICLE VIII Condemnation

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefore. The provisions of Article VII, Section 3, above, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE IX Annexation of Additional Property

As the owner thereof or, if not the owner, with the consent of the owner thereof, and upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President of the Association, whose signature shall be attested by the Secretary of the Association, and any such annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

ARTICLE X Mortgagee Provisions

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

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

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of an obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

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

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

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

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

Section 4. Special FHLMC Provision So long as required by the Federal Home Loan Mortgage Corporation, and so long as the U.S. Department of Housing and Urban Development ("HUD") is insuring or the Veterans Administration ("VA") is guaranteeing any Mortgage in the Community, the following provisions apply in addition to and not in lieu of the foregoing. Unless two-thirds (2/3) of the first Mortgages or Owners give their consent, the Association shall not:

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

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

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

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

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

Nothing contained in this Section 2 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 4.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 5. Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Section 7. Amendment by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

ARTICLE XI
Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant, or the Association.

Section 2. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property and Recreational Facilities, if any, which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property or Recreational Facilities, to limit the number of guests of Lot Owners and tenants who may use the Common Property or Recreational Facilities, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests and invitees;

(ii) The right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the Recreational Facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for a period not to exceed sixty (60) days for an infraction of the Declaration, Bylaws, or rules and regulations;

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

(iv) The right of the Association to dedicate or grant licenses, permits or easements over, under and through the Common Property or Recreational Facilities to governmental entities for public purposes;

(v) The right of the Association to dedicate or transfer all or any portion of the Common Property or Recreational Facilities subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of members who are Owners of at least two thirds (2/3) of the Lots; and .

(vi) The right of the Association to adopt, enforce and amend, from time to time, reasonable rules and regulations pertaining to the use of the Recreational Facilities.

(b) Any Lot Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and Recreational Facilities and other facilities located thereon to the members of such Owner's family and to such Owner's tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Lot, if leased.

Section 3. Easement for Utilities. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Association, or the designee thereof, to install, repair, replace and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XII, Section 2 hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security and safety reasons, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 5. Easement for Maintenance. A perpetual easement exists for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article V. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect such property and damage shall be repaired by the Person causing the damage at its sole expense.

Section 6. Easement for Entry Features. An easement for ingress, egress, installation, construction, landscaping and maintenance of entry features and similar streetscapes for the Community exists for the benefit of the Association over and upon each Lot as more fully described on the recorded subdivision plats for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

Section 7. Easement for Association. There is hereby reserved for the benefit of the Association, its officers, board members, agents and employees, including, but not limited to any manager employed by the Association and any employees of any such manager, the general right and easement to enter upon any Lot or portion thereof in the performance of its respective duties. Except in the event of emergencies, this right and easement is to be exercised only during normal business hours and, whenever practical, only upon advance notice and with the permission of the Owner of the Lot directly affected thereby/

ARTICLE XII General Provisions

Section 1. Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed to such Owner's Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association or, in a proper case, by an aggrieved Owner. Failure by the Association or

any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions, or design guidelines and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

Section 2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the Community to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. This Declaration shall run with and bind the Property for the maximum time permitted under Georgia law, and shall, to the extent so permitted, have perpetual duration.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by the Board of Directors (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two thirds (2/3) of the Lots. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein.

Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in the Superior Court of Forsyth County, Georgia, within one (1) year of the date of recordation of such amendment in the Forsyth County, Georgia land records.

Section 5. Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within the Community.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7. 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 provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 9. Preparer. This Declaration was prepared by Stephen A. Winter, Esquire, Weinstock & Scavo, P.C., 3405 Piedmont Road, N.E., Suite 300, Atlanta, Georgia 30305.

Section 10. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 11. Indemnification. To the fullest extent allowed by applicable Georgia law, the Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonable incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Section 12. Books and Records.

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

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) Notice to be given to the custodian of the records;
- (ii) Hours and days of the week when such an inspection may be made; and
- (iii) Payment of the costs of reproducing copies of documents.

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

Section 13. Financial Review. A review of the books and records of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, by a majority of the Total Association Vote, the Owners may require that the accounts of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within ninety (90) days of the date of the request.

Section 14. Notice of Sale or Lease. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sale or lease, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot, each

new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably request.

Section 15. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 16. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, any use restrictions or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 17. Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 18. Recreational Facilities. All Owners shall have the right to use certain planned recreational facilities which may include tennis courts and a swimming pool ("Recreational Facilities"). The Recreational Facilities shall be used by Owners of Lots within the Evonvale and Montgrove Communities. The Recreational Facilities shall be owned by Montvale Homeowners Association, Inc..

Section 19. Entry Feature and Landscape Easements. The original Declarant(s) has established certain landscape maintenance easement areas in or adjacent to the properties along McGinnis Ferry Road and Brookwood Drive as more particularly shown on Exhibit "C" attached hereto and by this reference incorporated herein (hereinafter referred to as the "Landscape Easement"). An easement exists for the benefit of the Association administering any portion of the Properties containing the Landscape Easement for the installation, modification and maintenance of any entry features and/or landscape improvements in such area. The easement and right shall include the right to cut, remove and plant trees, shrubbery flowers and other vegetation and to grade the land in the Landscape Easement. The Landscape Easement shall be maintained in accordance with the provisions set forth herein.

Section 20. Conflicts. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Property shall be observed. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

[Signatures begin on following page.]

IN WITNESS WHEREOF, the undersigned, the Declarant herein, hereby executes this instrument by and through its duly authorized officers and under seal this ____ day of _____, 2002.

Evonvale Homeowners Association, Inc., a Georgia non-profit corporation

By: _____

Print Name: _____

Print Title: _____

Attest: _____

Print Name: _____

Print Title: _____

Signed, sealed and delivered this ____ day of _____, 2002 in the presence of:

Witness

Notary Public
My commission expires:

Montgrove Homeowners Association, Inc., a Georgia non-profit corporation

By: _____

Print Name: _____

Print Title: _____

Attest: _____

Print Name: _____

Print Title: _____

Signed, sealed and delivered this ____ day of _____, 2002 in the presence of:

Witness

Notary Public
My commission expires:

EXHIBIT A

PROPERTY SUBMITTED

EVONVALE

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1127, 1128, 1129 and 1161 of the 2nd District, 1st Section of Forsyth County, Georgia, containing approximately 20.821 acres, and being known as Evonvale, Unit One as shown on that certain Final Plat of Unit One Evonvale, dated June 2, 1994, prepared by Watts & Browning Engineers, Inc., certified by and bearing the seal of Garry M. Gillespie, Georgia Registered Land Surveyor No. 2121, which plat was recorded on October 26, 1994, in Plat Book 41, Page 98-99, Forsyth County, Georgia land records. [From Declaration for Evonvale, Recorded October 27, 1994]; and

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1128 and 1129 of the 2nd District, 1st Section, Forsyth County, Georgia, and being more particularly described as Unit Two, Evonvale, as shown on that certain Final Plat of Unit Two Evonvale, dated April 20, 1995, prepared by Watts & Browning Engineers, Inc., and bearing the seal of Georgia Registered Land Surveyor G.M. Gillespie, No. 2121, and filed of record in the office of the Clerk of the Superior Court of Forsyth County, Georgia on July 24, 1995 in Plat Book 43, Pages 224-225. [From Supplementary Declaration for Evonvale Recorded July 31, 1995; and

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1127 and 1096 of the 2nd District, 1st Section, Forsyth County, Georgia, and being more particularly described as Unit Three-A, Evonvale, as shown on that certain Final Plat of Unit Three-A Evonvale, dated October 23, 1995, prepared by Watts & Browning Engineers, Inc., and filed of record in the Office of the Clerk of the Superior Court of Forsyth County, Georgia on February 29, 1996, in Plat Book 45, Page 265-266. [From Supplemental Declaration recorded March 12, 1996] and;

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1128 and 1129 of the 2nd District, 1st Section, Forsyth County, Georgia, and being more particularly described as Unit Three-B, Evonvale, as shown on that certain Final Plat of Unit Three-B Evonvale, dated March 7, 1996, prepared by Watts & Browning Engineers, Inc., and filed of record in the Office of the Clerk of the Superior Court of Forsyth County, Georgia on August 21, 1996 in Plat Book 47, Pages 131-132. [From Supplemental Declaration recorded August 29, 1996.]; and

MONTGROVE:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1096, 1097, 1126, 1127, 1128 and 1161 of the 2nd District, 1st Section of Forsyth County, Georgia, containing approximately 33.856 acres, and being known as Montgrove, Unit One as shown on that certain Final Plat of Unit One Montgrove, dated June 30, 1994, prepared by Watts & Browning Engineers, Inc., certified by and bearing the seal of Garry M. Gillespie, Georgia Registered Land Surveyor No. 2121, which plat was recorded on November 21, 1994 in Plat Book 41, Page 157-158, Forsyth County, Georgia land records [From Declaration for Montgrove Recorded November 21, 1994;

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1096, 1126, 1127 and 1128 of the 2nd District, 2nd Section, Forsyth County, Georgia, and being more particularly described as Unit Three, Montgrove, as shown on that certain Final Plat of Unit Three Montgrove, prepared by Watts & Browning Engineers, Inc., and filed of record in the Office of the Clerk of the Superior Court of Forsyth County, Georgia, on October 21, 1996 in Plat Book 48, Pages 16-25. [From Supplemental Declaration for Montgrove, recorded January 30, 1996]

ALL THAT TRACT AND PARCEL OF LAND lying and being in Land Lots 1127, 1128, 1161 and 1162 of the 2nd District, 1st Section, Forsyth County, Georgia, and being more particularly described as Unit Two, Montgrove, as shown on that certain Final Plat of Unit Two Montgrove, dated September 20, 1995, prepared by Watts & Browning Engineers, Inc., and filed of record in the Office of the Clerk of the Superior court of Forsyth County, Georgia on January 12, 1996 in Plat Book 45, Pages 127-129. [From Supplemental Declaration for Montgrove recorded October 23, 1996]

EXHIBIT B

RECREATIONAL FACILITIES PROPERTY

ALL THAT TRACT or parcel of land lying in Land Lots 1128 and 1161, 2nd District, 1st Section, Forsyth County, Georgia, and being more particularly described as:

To reach the Point of Beginning commence at the intersection of the northeasterly r/w of McGinnin Ferry Road (80'r/w) and the northwesterly r/w of Brookwood Drive (60'r/w) thence North 75 degrees 23 minutes 47 seconds East along the northwesterly r/w of Brookwood Drive (60'r/w) for a distance of 737.79 feet to the Point of Beginning; from the Point of Beginning thus established, proceed North 19 degrees 02 minutes 00 seconds West departing the northwesterly r/w of Brookwood Drive (60'r/w) for a distance of 190.49 feet to a point on the southeasterly proposed r/w of Southmont Court (proposed 50'r/w); thence following said proposed r/w along a curve to the left having a radius of 250.00 feet and an arc length of 107.83 feet, being subtended by a chord of North 36 degrees 21 minute 25 seconds East for a distance of 107.00 feet to a point; thence North 24 degrees 00 minutes 00 seconds East for a distance of 65.24 feet to the intersection of the proposed southeasterly r/w of Southmont Court (proposed 50'r/w) and the proposed southerly r/w of Montvale Crossing (proposed 50'r/w); thence following said proposed southerly r/w along a curve to the left having a radius of 225.00 feet and an arc length of 274.92 feet, being subtended by a chord of North 72 degrees 42 minutes 12 seconds East for a distance of 258.13 feet to a point; thence departing the proposed southerly r/w of Montvale Crossing (proposed 50'r/w) South 28 degrees 17 minutes 33 seconds East and for a distance of 329.80 feet to a point on the northwesterly r/w of Brookwood Drive (60'r/w); thence South 75 degrees 23 minutes 47 seconds West along the northwesterly r/w of Brookwood Drive (60'r/w) for a distance of 445.00 feet to the Point of Beginning. Said property contains 2.633 acres.

EXHIBIT C

LANDSCAPE EASEMENT

ALL THAT TRACT or parcel of land lying in Land Lot 1162, 2nd District, 1st Section, Forsyth County, Georgia, and being more particularly described as:

Beginning at the intersection of the northeasterly r/w of McGinnis Ferry Road 80'r/w) and the Northwesterly r/w of Brookwood Drive (60'rw), said point being the Point of Beginning; thence North 45 degrees 20 minutes 16 seconds West along the northeasterly r/w of McGinnis Ferry Road (80'r/w) for a distance of 270.00 feet to a point; thence leaving said right-of-way and proceeding North 44 degrees 39 minutes 44 seconds East for a distance of 50.00 feet to a point; thence South 45 degrees 20 minutes 16 seconds East for a distance of 100.00 feet to a point; thence South 55 degrees 55 minutes 52 seconds East for a distance of 135.00 feet to a point; thence North 78 degrees 08 minutes 30 seconds East for a distance of 215.00 feet to a point; thence South 14 degrees 36 minutes 13 seconds East for a distance of 60.00 feet to a point on the northwesterly r/w of Brookwood Drive (60'r/w); thence South 75 degrees 23 minutes 47 seconds West along the northwesterly r/w of Brookwood Drive (60'r/w) for a distance of 260.00 feet to the Point of Beginning. Said tract contains 0.695 acres.

EXHIBIT D

BYLAWS OF MONTVALE HOMEOWNERS ASSOCIATION, INC.