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STATE OF GEORGIA
CLAYTON COUNTY

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
FOR
WATERPOINTE, UNIT FOUR
CLAYTON COUNTY, GEORGIA

THIS DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS made and published this 25th day of February, 2008, by JMC LAND & INVESTMENTS, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS Declarant is the fee simple owner of all that tract or parcel of land lying and being in the Clayton County, Georgia, and being more particularly described on Exhibit "A" attached hereto and by reference incorporated herein and made a part hereof, thereafter referred to as the "Property"; and

WHEREAS, Declarant has developed on the Property, a subdivision known as "WATERPOINTE, UNIT FOUR" (hereinafter referred to as the "Subdivision"); and

WHEREAS, Declarant desires to enhance the value and provide for the uniform development of the "Subdivision";

NOW THEREFORE, the Declarant hereby declares as follows:

That the Property shall be held, conveyed, encumbered, used, occupied and improved subject to the following covenants, restrictions and easements, all of which are in furtherance of a plan for Subdivision, improvements and sale of real property and are established for the purpose of enhancing the value, desirability and attractiveness of the real property and every part thereof. The covenants, restrictions and easements set forth herein shall run with the land and shall be binding on all parties having or acquiring any right, title or interest therein or thereto, and shall, subject to the limitations herein provided, inure to the benefit of each "Owner" (as hereinafter defined) and his/her heirs, successors and assigns.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO SUBMIT THE PROPERTY TO THE TERMS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

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**ARTICLE I
DEFINITIONS**

The following terms, when used herein, shall have the meaning ascribed thereto below.

1.0 **"Architectural Control Committee" or "ACC"** shall mean the committee established pursuant to Article III to supervise compliance with the Design Standards.

1.1 **"Association"** shall mean "Waterpointe Community Association, Inc.", as defined in the Waterpointe Declaration of Recreation & Common Area at Deed Book 1446, Page 505 et seq., further described at Plat Book 24, Page 127 et seq.

1.2 **"Declarant"** shall mean and refer to (a) JMC LAND & INVESTMENTS, LLC or (b) any successor-in-title to JMC LAND & INVESTMENTS, LLC, in all or some portion of the Property provided such successor-in-title shall acquire such property for purposes of development and sale, and provided further, that in a written instrument, such successor-in-title is expressly designated as the Declarant hereunder by the grantor of such conveyance, which grantor shall be the Declarant hereunder at the time of such conveyance.

1.3 **"Design Standards"** Set of standards established by the Declarant and/or ACC that employs a theme and uniformity of Structures and landscaping for the Subdivision.

1.4 **"Lot"** shall mean a parcel of land designated as a lot on a "Plat" of the Subdivision that is recorded of record in the office of the Clerk of the Superior Court of Clayton County, Georgia.

1.5 **"Owner"** shall mean the record owner (including Declarant), whether one or more persons or entities, of the fee simple title to any Lot upon which a permanent home has been constructed and is occupied in accordance with this Declaration, provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner. "Owner" shall further mean and include Declarant until one (1) year after the sale of the last Lot proposed to be developed on the Property described in Exhibit "A" hereto attached.

1.6 **"Plat" or "Plats"** means the subdivision plat recorded in the Office of the Clerk of Superior Court of Clayton County, Georgia.

1.7 **"Property"** means the property described in Exhibit "A" hereto attached and by reference made upon hereof and any property subsequently added thereto by amendment and made a part hereof.

1.8 **"Restrictions"** means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.9 **"Structure"** means (a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not of limitation, any building or part thereof, garage, porch, shed, greenhouse or ballhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, walk, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer), or any other temporary or permanent improvements to such Lot (b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the

1.10 "Subdivision" means the Property subdivided, having a plat made thereof, and approved by Clayton County, Georgia, and any property subsequently added thereto by amendment;

2.1. Property herein Subjected To This Declaration. The real property is, by the recording of this Declaration, subject to the covenants, conditions, restrictions and easements hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration, is the real property described in Exhibit "A", attached hereto and by this reference made a part hereof.

2.2 Other Property. Only the real property described in Article 2.1 above is hereby made subject to this Declaration; provided, however, by one or more amended Declarations, Declarant has the right, but not the obligation, to subject other real property to this Declaration, as hereinafter provided.

3.1 Architectural Control Committee - Creation and Composition.

3.1.1. The Architectural Control Committee ("ACC") shall be appointed by JMC Land & Development, LLC ("JMC") and consist of not less than three (3) nor more than five (5) individuals; provided, however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, the ACC shall exist until the last Lot of all proposed to be developed on the property described in Exhibit "A" has been developed and sold by JMC or any property subsequently added thereto and made a part hereof by JMC. During the ACC's existence, all members of the ACC shall be appointed by JMC. All costs of operating the ACC shall be borne by the respective Owners subject to the ACC review. JMC may, in its sole discretion, assign the right to appoint the ACC to any other individual or entity at any time. In the event of such an assignment, the ACC shall have the right, but not the obligation, to record notice of said assignment of record in the form of an amendment as described in Article 7.1.

3.1.2 Each initial member of the ACC shall be appointed for a term expiring on December 31, 2012. Thereafter each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall, subject to the provisions of Section 5.1.1, be filled by JMC at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant.

3.2 **Purposes, Powers and Duties of the ACC.** The purpose of the ACC is to assure that any installation, construction or alteration of any Structure on any Lot shall be submitted to the ACC for approval: (a) as to whether the proposed installation, construction or alteration complies with the Design Standards and is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Subdivision, and (b) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to the accomplishment of such purpose, including, without being limited to, the power and duty to improve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

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

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

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

and (b) any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by application to the ACC as provided in Section 3.4.2. Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of the majority of the members of the ACC with respect to such matter shall be final and binding.

3.5 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless two (2) sets of plans and specifications therefor shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards, including, but not limited to: (a) a site plan showing the location of all proposed and existing Structures on the Lot, including outbuilding setbacks, open space, driveways, walkways and parking spaces, including the number thereof; (b) a floor plan; (c) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all buckfilling and landscaping are completed; (d) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and (e) plans for landscaping and grading.

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

3.7 Disapproval of Plans and Specifications. The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following: (a) failure of the Applicant to include such information in such plans and specifications as may have been reasonably requested; (b) the failure of such plans and specifications to comply with this Declaration or the Design Standards; or (c) any other matter which, in the sole judgment of the ACC, would adversely affect the Subdivision or any additions thereto.

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3.8 **Inspections.** The ACC shall have the right to enter upon each Lot for the purpose of making appropriate inspections of matters that are within its jurisdiction. Such inspections and entries can be done without notice. The Owner specifically waives any claims for damages that the Owner may have that occur as the result of the entry or inspection of the Lot and improvements contained thereon.

3.9 **Violations.** If any Structure shall be erected, placed, maintained or altered upon any Lot otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC have the rights set forth in Article VI.

3.10 **Certification of Compliance.**

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

3.10.2 Any Certificate of Compliance issued in accordance with the provisions of this Section 3.10.2 shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article; provided however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of the Structures or the workmanship, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment.

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

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

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

ARTICLE IV GENERAL COVENANTS, RESTRICTIONS AND DESIGN STANDARDS

4.1 **Residential Use.** Each Lot shall be used for residential purposes exclusively. No Lot shall be used for any commercial purposes whatsoever. No trade or business of any kind may be conducted in or from a Lot, except that the Owner residing in the residence on a Lot may conduct business activities within the residence so long as the business activity (a) does not otherwise violate the provisions of the

Declaration or Bylaws; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Subdivision; (e) is consistent with the residential character of the Subdivision; (f) does not constitute a nuisance or hazardous or offensive use; and (g) does not threaten the security or safety of other residents of the Subdivision, all as may be determined in each case in the sole discretion of the Declarant. 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 provisions 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) the activity is engaged in full time or part-time, (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. The Declarant may issue rules regarding permitted business activities.

4.2. Recorded Plat. No dwelling shall be constructed closer to any street, side property line or rear property line than the rear back line as shown on the recorded plat of subdivision, revealed in Plat Book 40, Pages 37 through 39, Clerk of Superior Court records, Clayton County, Georgia. No dwelling shall be constructed which would conflict with those zoning notes and conditions as shown on the recorded plat of subdivision revealed in Plat Book 40, Pages 37 through 39, Clerk of Superior Court records, Clayton County, Georgia. All restrictions and easements shown on Plat are hereby incorporated into this Declaration. In the event of any conflict between the Plat and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

4.3 Building Type and Accessory Structures. No building shall be erected, altered, placed or permitted to remain on any Lot, other than one detached single-family dwelling not to exceed three (3) stories in height (not including the basement), along with a private garage or carport. No Lot shall be used for the purpose of creating a street or access to other property, except as to the easements shown on the Plat. Nothing herein contained shall limit a builder from using a residence constructed by said builder, as a temporary business office for the sole and specific use of selling houses constructed in the Subdivision.

No house trailer or mobile home shall be permitted on any Lot at any time, except for temporary construction purposes during the construction of a particular house or houses in said subdivision. The use of a house, trailer, or mobile home as a temporary business office may continue for a period of time no longer than two years from the date of acquisition by said party of the Lot on which such office is located. Notwithstanding the foregoing, JMC shall be allowed to maintain a construction trailer within Subdivision, and at a location desired by JMC for use as a sales office and a construction and development office and for such related uses as it may desire.

Except as specifically provided for herein, there shall be no carports or garages, either open or closed, facing the front or street side of the house. Said front or street side shall have a completed wall from foundation to the roof line. Corner Lots shall be subject to this restriction on both street sides unless such restriction is specifically waived by the ACC as to one of said street sides, however, this restriction cannot be waived as to both street sides. Notwithstanding the above provision, the ACC has the right to allow enclosed garages facing the front on any Lot that is no greater than 140 ft. in width at the building line shown on the Plat.

No separate structure of any type, such as a tool or maintenance building, greenhouse, or similar building, shall be erected or maintained on any Lot to the front of the rear line of the residence and if on a corner Lot, no closer to the street than the residence is located. A separate garage can be built at any location behind the building lines shown on the Plat if the outside material is the same as the outside material of the house.

4.4 Building Materials. There shall be no exposed exterior unfinished walls, foundations, or

foundation walls, of concrete, concrete blocks, cinder blocks or other fabricated masonry materials. All such blocks, concrete, or other material shall be veneered with brick, stone, wood, simulated wood material, masonry, stucco or other approved material over the entire surface exposed above finished grade. Painting or similar coating shall not meet the requirements of this provision. No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot, except for purposes of construction on such specific Lot and shall not be stored on such Lot for longer than that length of time reasonably necessary for the construction in which the same is to be used.

4.5 Motor Vehicles and Parking. The assembly and disassembly of motor vehicles and other mechanical devices shall not be pursued or undertaken in the front or side yards of any Lot. Boats, motor homes, campers and recreational vehicles shall not be stored or parked on any Lot nearer to the right-of-way of the public street than the front line of the residence or nearer than the front line or side line of the residence on a corner Lot.

4.6 Yard. Before any dwelling may be occupied, it must be completely finished on the exterior, all of the yard which is visible from any street must be planted with grass or have other suitable ground cover and the driveway must be paved. Turf Grass, Bermuda, Zoysia, or other similar sod grasses must cover at least 500 sq. ft. of the yard area lying to the front of the house built on each Lot.

4.7 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Household pets shall be limited to no more than three (3) animals over the age of six months, (other than birds, fish or caged animals weighing no more than one-half pound each).

4.8 Garbage and Refuse Disposal. Containers for garbage or other refuse shall be enclosed and screened from view from the street and shall be maintained under sanitary conditions. No Lot shall be used or maintained as a dumping ground for rubbish; however, this shall not prevent builders from hauling stumps and debris during construction in keeping with Clayton County Regulations.

4.9 Noise and Odor. No substance or material of any nature whatsoever shall be placed or kept on any Lot, nor shall any activity carried on upon any Lot or building on said Lot which will emit foul or unpleasant odors or that will cause such noise that may disrupt the peace, quiet, comfort, enjoyment or serenity of other Lot Owners or Property. Any noise that can be heard inside a neighboring house with the windows and doors closed will be considered too loud. Exceptions to this shall include only equipment used in the normal maintenance of residential yards, which are permitted between the hours of 8 a.m. and dusk.

4.10 Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. The use or discharge of firearms anywhere in the Subdivision is strictly prohibited. The term "firearm" includes but is not limited to, "B-B" guns, pellet guns, paintball guns, and other guns of any type, regardless of size.

4.11 Temporary Structures. No structure of a temporary character, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently.

4.12 Fences. Except as herein provided, no fences of any kind shall be constructed, maintained, or allowed to the front of any dwelling and within 36 ft. of any public street right-of-way. No

metal or wire fences shall be allowed between the front of the dwelling and the rear foundation wall. This overall restriction on fences shall not, however, include decorative fences which are less than 3½ feet in total height. Decorative fences shall not obstruct the view across a particular Lot and decorative fences shall not be used to completely enclose the front yard area. This restriction shall also not include fences erected by builders for security purposes on a house prior to the time the house is dried in and can be locked.

4.13 Mailboxes. All mailboxes shall conform to U.S. Postal Regulations.

4.14 Pools and Tennis Courts. Swimming pools and tennis courts are permitted, however, they cannot be built any closer to the street than the front line of the residence to be built on the Lot. The location of swimming pools and tennis courts on corner Lots must be located behind the residence and shall be no closer to the side street than the residence is located. The location of pools and tennis courts on corner Lots must also be approved by the ACC.

4.15 Hobbies and Activities. The pursuit of hobbies or other activities, including, but not limited to 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 on any part of a Lot. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills and bicycles may be kept on the patio or deck serving the Lot.

4.16 Clotheslines. Outside clotheslines shall not be permitted.

4.17 Air Conditioners. Window air conditioning units shall not be allowed. All dwellings must have central heating and air conditioning units.

4.18 Signs. After each house has been built and sold to the first homeowner, no sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than six square feet advertising the property for sale or rent. Said signs to rent or sell said property shall be of a type used by brokers in the Clayton County area, with the usual wording, and such a sign shall not be more than three feet on either side.

4.19 Satellite Dishes and Radio Antennas. There shall be no radio or television antennas, dishes or dishes to the front or side of the house or within 50 ft. of any street Right of Way. There shall be no radio or television dishes or dishes on the street facing roof of any house.

4.20 Utilities. All utilities provided to any dwelling shall be installed underground from the public right of way to the dwelling.

4.21 Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any Lot or any part of any easement area associated therewith without the prior written consent of the ACC.

4.22 Drainage. Catch basins, retention ponds, detention ponds and drainage easement areas are for the purpose of controlling the natural flow of water only. No Owner may obstruct or alter the drainage flows after location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without the prior written consent of the ACC.

4.23 Hazardous Materials. No hazardous materials may be used, generated, stored, or

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disposed of, discharged or released on, above, or under the Subdivision, except in compliance with all applicable laws, regulations, ordinances and permits. "Hazardous materials" means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, petroleum, oil, or any petroleum oil, or any petroleum by-product as defined as a hazardous substance under any applicable federal, state, or local laws, regulations or ordinances whether existing as of the date of this Declaration, previously enforced or subsequently enacted.

4.14 Siltation and Erosion Control. During the time any building or construction activity is being pursued on any Lot in the subdivision, a siltation and erosion control plan must be implemented to insure the elimination of siltation, erosion or runoff from the Lot on which such activity is taking place onto an adjoining Lot, the street or the J.W. Smith Reservoir. Siltation control facilities such as silt fences or hay bales must be put into place and maintained between any area on which vegetation is disturbed and all Lot lines which lie at a lower elevation than the disturbed ground area. These siltation control facilities, silt fences or hay bales shall not be removed unless and until the grass and, or, other vegetation, is sufficient to prevent silt runoff. Banks of streams and drainage ditches must be protected by siltation control facilities and permanent cover must be planted in such areas for more permanent protection.

ARTICLE V EASEMENTS, ZONING AND OTHER RESTRICTIONS

5.1 Easements.

5.1.1 Declarant hereby expressly reserves to the Declarant, and its successors and assigns as Declarant, forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not of limitation, the following: (a) the erection, installation, construction and maintenance of wires, lines, and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities; (b) the erection, installation, construction and maintenance of storm-water drains, catch basins, retention ponds, detention ponds, drainage swells, land drains, public or private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function; (c) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change obstruct or retard drainage flow; (d) the planting or replanting of hedges, shrubbery, bushes, trees, flowers and plants of any nature; and (e) maintenance of entrance monuments. It is anticipated that increased storm water runoff across downstream Lots will result from construction of impervious surfaces on Lots. Neither Declarant, nor its successors and assigns, shall have any liability to any Owner due to increase flow or increased velocity of surface water resulting from approved construction of a Lot.

5.1.2 No Owner shall have any right to use any easement created by the Declarant in or on or over any portion of the Property unless such easement has been assigned by the Declarant to the Owners.

5.2 **Easement Area.** The words "Easement Area" as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or the Plat relating thereto.

5.3 **Easement for Entry.** The Declarant shall have an easement to enter onto any Lot for emergency, security, safety, and for other purposes reasonably necessary for the proper maintenance and

operation of the Property, which right may be exercised by the Declarant's officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Declarant to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Declarant.

5.4 Easement for Entry Features. There is hereby reserved to the Declarant an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features and similar streetscapes for the Property on which entry features and similar streetscapes are located. 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 similar streetscapes and the right to grade the land under and around such entry features.

5.5 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulation of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

ARTICLE VI ENFORCEMENT

6.1 Enforcement. Enforcement of this Declaration may be instituted and maintained by any of the following parties:

- (i) The Owner of any Lot in the Subdivision;
- (ii) The Association;
- (iii) The ACC.

Said enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of this Declaration, either to restrain violation or to recover damages.

6.2 Right of Abatement.

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

6.2.2 The "Right of Abatement," as used herein, means the right of the Declarant or ACC, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach, or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason and such actions are carried out in accordance with the provisions of this Section 6.2.2, and with the costs thereof, including the costs of collection and reasonable attorney's fees.

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together with interest thereon at the lower of the highest rate permitted by law or eighteen percent (18%) per annum to be a binding personal obligation of such Owner, enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of this Declaration. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only: (a) such liens for taxes or other public charges as are by applicable law made superior; and (b) all deeds to secure debt given to secure a loan the proceeds of which are used (i) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) and (ii) to finance the construction, repair or alteration of Structures.

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

6.4 No Waiver. The failure of the Declarant, the ACC, the Owner of any Lot, or his legal representative, heirs, successors and assigns, to enforce any Restrictions herein contained shall, in no event, be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE VII DURATION AND AMENDMENT

7.1 Duration and Amendment. The Declaration and the Restrictions contained herein shall run with and bind the Property for a period of twenty (20) years from and after the date when this Declaration is filed for record with the Clerk of the Superior Court of the county in which the Property is located, after which time this Declaration and the Restriction shall be automatically renewed for successive periods of ten (10) years, provided, however, that after the end of the said twenty (20) year period and during any ten (10) year renewal period (but only during such renewal periods), this Declaration, and the Restrictions contained herein may be terminated by an instrument, signed by a majority of the then Owners of the Lots, subject to this Declaration, has been recorded agreement to eliminate or change said Declaration in whole or in part.

7.2 Amendments by Declarant. So long as Declarant owns any of the property described in Exhibit "A" hereto attached and any property subsequently added thereto by amendment and made a part hereof, Declarant may unilaterally amend this Declaration for any purpose by an instrument in writing filed and recorded in the Office of the Clerk of the Superior Court of the county in which the Property is located, without the approval of any Owner. Each Owner, by acceptance of a deed or other conveyance to a Lot agrees to be bound by such amendments and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instrument relating to the Subdivision. Notwithstanding the foregoing, Owners hereby covenant and agree to promptly execute such amendment, if requested by Declarant or if otherwise required by the applicable jurisdiction.

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7.3 Control by Declarant. Notwithstanding any other language or provision to the contrary in this Declaration, the Declarant shall exist and have control of this Declaration until such time as the first of the following events shall occur: (a) until one (1) year after the sale of the last lot of all proposed lots to be developed on the Property described in Exhibit "A" hereto attached and any property subsequently added thereto by amendment and made a part hereof; or (b) the surrender by Declarant of their authority by an express amendment to this Declaration executed and recorded by Declarant. Upon the expiration of the period of Declarant's existence pursuant to the provisions of this Section, 7.3, such control shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots. The Declarant may assign their title pursuant to Article 1.2.

ARTICLE VIII MISCELLANEOUS

8.1 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

8.2 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

8.3 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

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

8.5 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.

8.6 Notices. All notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consents of any kind made pursuant to the Declaration, whether made by the Declarant, an Owner, or any person, shall be in writing. All such notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consents shall be deemed to have been duly given or made if either delivered personally or mailed by Certified Mail, Return Receipt Requested, addressed to the parties, as the addresses set forth below:

Declarant	JMC Land & Investments LLC P.O. Box 1685 McDonough, GA 30253
Owners:	Each Owner's Address at the Owner's Lot

Any such notice, request, objection, waiver, rejection, agreement, approval, disclosure or consent shall be deemed received by the party to whom addressed on the date appearing on the return receipt therefor. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice has been received by the other party shall constitute receipt of the notice, demand or request sent. Any item delivered by personal delivery shall be deemed received on the date of the personal

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delivery.

8.7 Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability. Neither the ACC nor the Declarant shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever of such ACC or Declarant, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify, defend and hold harmless each of the members of the ACC, Declarant, and its respective devisees, legatees, heirs, executors, administrators, legal representatives, successors and assigns. Nothing herein contained shall make responsible or subject to liability any successor to the Declarant by operation of law or through purchase of the Declarant's interest in the Property (or any part thereof) at foreclosure, sale under power, or by deed in lieu of foreclosure, for any act, omission or matter occurring or arising from any act, omission or matter occurring prior to the time such successor succeeded to the interest of the Declarant.

8.8 Variances. Notwithstanding anything to the contrary contained herein, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration, 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 is warranted and would not be inconsistent with the overall scheme of development for the Subdivision.

8.9 Constructive Notice. Each Owner, by his acceptance of a deed or other conveyance of a Lot, acknowledges for himself, his heirs, legal representatives, successors and assigns, that he is bound by the provisions of this Declaration.

8.10 Binding Effect. This Declaration shall be binding upon the undersigned, their heirs, administrators, successors and assigns. Said Declaration shall run with the title to the property described in Exhibit "A" and any subsequent property that is added hereto by amendment.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and affixed its seal as of the day and year first above written.

DECLARANT:

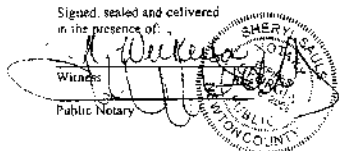
JMC LAND & INVESTMENTS, LLC, a
Georgia limited liability company

By: [Signature] (L.S.)
Title: President

Signed, sealed and delivered
in the presence of:

Witness

Public Notary



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