

COVENANTS

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA.

306217

02 AUG 13 PM 3: 55
TOM LAWLER, CLERK

DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BROOKFIELD CHASE

Upon recording, please return to:

Lon G. Bryant, Esq.
Centex Homes
1750 Founders Parkway, Suite 126D
Alpharetta, GA 30004

144455

TABLE OF CONTENTS

	Page
PREAMBLE.....	1
ARTICLE 1: DEFINITIONS	1
1.1. "Additional Property"	1
1.2. "ARB"	2
1.3. "Architectural Guidelines"	2
1.4. "Area of Common Responsibility"	2
1.5. "Articles of Incorporation" or "Articles"	2
1.6. "Association"	2
1.7. "Board of Directors" or "Board"	2
1.8. "Builder"	2
1.9. "By-Laws"	2
1.10. "Class "B" Control Period"	2
1.11. "Common Expenses"	2
1.12. "Common Property "	3
1.13. "Community-Wide Standard"	3
1.14. "Days"	3
1.15. "Declarant"	3
1.16. "Development"	3
1.17. "Development Period"	3
1.18. "General Assessment"	3
1.19. "Governing Documents"	3
1.20. "Homesite"	4
1.21. "Majority"	4
1.22. "Member"	4
1.23. "Mortgage"	4
1.24. "Mortgagee"	4
1.25. "Owner"	4
1.26. "Person"	4
1.27. "Plan of Development"	4
1.28. "Properties"	4
1.29. "Public Records"	4
1.30. "Special Assessment"	4
1.31. "Specific Assessment"	5
1.32. "Supplemental Declaration"	5
ARTICLE 2: PLAN OF DEVELOPMENT AND COMMON PROPERTY	5
2.1. Plan of Development.	5
2.2. Common Property - General.	6
2.3. Common Property - Conveyancing.	6
2.4. Use and Enjoyment of the Common Property	6

2.5.	Designated Areas of Common Responsibility.	7
2.6.	No Partition.	8
2.7.	Condemnation.	8
ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS		8
3.1	Membership.	8
3.2	Voting.	8
ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION		9
4.1	Function of Association.	9
4.2	Personal Property and Real Property for Common Use.	10
4.3	Enforcement.	10
4.4	Implied Rights; Board Authority.	12
4.5	Indemnification.	12
4.6	Dedication of or Grant of Easements on Common Property	12
4.7	Security.	12
ARTICLE 5: MAINTENANCE		13
5.1	Association's Responsibility.	13
5.2	Owner's Responsibility.	15
5.3	Standard of Performance.	15
ARTICLE 6: INSURANCE AND CASUALTY LOSSES		16
6.1	Association Insurance.	16
6.2	Owners' Insurance.	18
ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY		19
7.1.	Annexation by Declarant.	19
7.2.	Annexation by Membership.	19
7.3	Withdrawal of Property.	19
7.4	Additional Covenants and Easements.	19
7.5	Amendment.	20
ARTICLE 8: ASSESSMENTS		20
8.1	Creation of Assessments.	20
8.2	Declarant's Obligation for Assessments.	21
8.3	Computation of General Assessments.	21
8.4	Special Assessments.	22
8.5	Specific Assessments.	23
8.6	Lien for Assessments.	23
8.7	Date of Commencement of Assessments.	24
8.8	Failure to Assess.	24
8.9	Exempt Property.	24
8.10	Capitalization of Association.	24
8.11	Contributions by Declarant.	25

ARTICLE 9: ARCHITECTURAL STANDARDS	26
9.1. General.	26
9.2. Architectural Review.	26
9.3. Guidelines and Procedures.	27
9.4. Regulated Structures and Other Matters Concerning Enforcement	28
9.5. Construction Period	30
9.6. No Waiver of Future Approvals.	30
9.7. Variance.	30
9.8. Limitation of Liability.	30
9.9. Enforcement.	31
 ARTICLE 10: USE RESTRICTIONS	 32
10.1. General.	32
10.2. Rules and Regulations.	32
10.3. Occupants Bound	32
10.4. Leasing.	32
10.5. Residential Use.	33
10.6. Occupancy of Unfinished Homesites.	33
10.7. Vehicles.	33
10.8. Parking.	34
10.9. Use of Common Property	35
10.10. Animals and Pets.	35
10.11. Nuisance.	35
10.12. Storage of Materials, Garbage, Dumping, Etc.	36
10.13. Combustible Liquid.	36
10.14. Guns.	36
10.15. Subdivision of Homesite.	37
10.16. Sight Distance at Intersections.	37
10.17. Drainage and Grading.	37
10.18. Irrigation.	38
10.19. Streams.	38
 ARTICLE 11: EASEMENTS	 38
11.1. Easements of Encroachment.	38
11.2. Easements for Utilities, Etc.	38
11.3. Easements to Serve Additional Property.	39
11.4. Easement for Slope Control, Drainage and Waterway Maintenance.	40
11.5. Easement for Entry.	40
11.6. Easements for Maintenance and Enforcement.	41
11.7. Lateral Support.	41
11.8. Easement for Special Events.	41
11.9. Easement for Greenbelt Maintenance.	42
11.10. Liability for Use of Easements.	42

ARTICLE 12: MORTGAGEE PROVISIONS 42

 12.1. Notices of Action. 42

 12.2. Right to Records. 43

 12.3. No Priority. 43

 12.4. Notice to Association. 43

 12.5. Failure of Mortgagee to Respond. 43

 12.6. Construction of Article 12. 44

ARTICLE 13: DECLARANT'S RIGHTS 44

 13.1. Transfer or Assignment. 44

 13.2. Development and Sales. 44

 13.3. Common Properties. 44

 13.4. Application of Architectural Guidelines. 45

 13.5. Additional Covenants. 46

 13.6. Right of Class "B" Member to Disapprove Actions. 46

 13.7. Amendments. 47

ARTICLE 14: GENERAL PROVISIONS 47

 14.1. Duration. 47

 14.2. Amendment. 48

 14.3. Severability. 49

 14.4. Dispute Resolution. 49

 14.5. Litigation. 49

 14.6. Non-Merger. 50

 14.7. Grants. 50

 14.8. Cumulative Effect; Conflict. 50

 14.9. Use of the Words "Brookfield Chase". 50

 14.10. Compliance. 50

 14.11. Notice of Sale or Transfer of Title. 51

 14.12. Exhibits. 51

TABLE OF EXHIBITS

<u>Exhibit</u>	<u>Subject Matter</u>
"A"	Land Initially Submitted
"B"	Additional Property

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BROOKFIELD CHASE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration") is made as of the date set forth on the signature page hereof by CENTEX HOMES, a Nevada general partnership, having CENTEX REAL ESTATE CORPORATION, a Nevada corporation, as its managing general partner (the "Declarant").

Declarant is the owner of the real property described on Exhibit "A," which is attached hereto and incorporated herein by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall community, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for Brookfield Chase Homeowners Association, Inc., to operate and maintain Common Property and to administer and enforce the provisions of this Declaration, the By-Laws, and the Architectural Guidelines (capitalized terms are defined in Article 1 below).

Declarant hereby declares that all of the property described on Exhibit "A" and any Additional Property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

This document does not and is not intended to create a condominium within the meaning of O.C.G.A. '44-3-70, et seq. nor a property owners' development within the meaning of the O.C.G.A. '44-3-220, et seq.

ARTICLE 1: DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "**Additional Property**": All of that certain real property which is more particularly described on Exhibit "B," which is attached hereto and incorporated herein

by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2. "ARB": The Architectural Review Board, as described in Section 9.2.

1.3. "Architectural Guidelines": The design, architectural and construction guidelines and application and review procedures applicable to all or any portion of the Properties which may be promulgated and administered pursuant to Article 9.

1.4. "Area of Common Responsibility": The Common Property, together with those areas or property, if any, which have been designated to be maintained by the Association or for which it has assumed responsibility.

1.5. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Brookfield Chase Homeowners Association, Inc., as filed with the Secretary of State of the State of Georgia.

1.6. "Association": Brookfield Chase Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

1.7. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and serving as the board of directors under Georgia corporate law.

1.8. "Builder": Any Person who purchases one (1) or more Homesites for the purpose of constructing improvements for later sale to consumers or who purchases one (1) or more parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business. Any Person occupying or leasing a Homesite for residential purposes shall cease to be considered a Builder with respect to such Homesite immediately upon occupancy of the Homesite for residential purposes, notwithstanding that such Person originally purchased the Homesite for the purpose of constructing improvements for later sale to consumers.

1.9. "By-Laws": The By-Laws of Brookfield Chase Homeowners Association, Inc., as they may be amended.

1.10. "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint the members of the Board of Directors as provided in Section 3.2.

1.11. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

1.12. "Common Property ": All real and personal property, including easements and licenses, which the Association owns, leases or holds possessory or use rights in, for the common use and enjoyment of the Owners.

1.13. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the Architectural Review Board.

1.14. "Days": Calendar days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.15. "Declarant": Centex Homes, a Nevada general partnership, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibit "A" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided however, there shall be only one (1) "Declarant" hereunder at any time. Centex Homes (in the event its rights as Declarant have been transferred or assigned to another party), and any other Person who subsequently transfers or assigns the rights of Declarant to another Person shall be known as a "predecessor Declarant", and, unless otherwise agreed to in writing, shall be entitled to the rights of a predecessor Declarant established in this Declaration.

1.16. "Development". "Development" shall mean and refer to the Property, the Common Property, and all improvements located or constructed thereon, and any portion of the Additional Property subjected to this Declaration. The term shall be used generally to describe the residential community of Brookfield Chase.

1.17. "Development Period": The period of time during which (i) the Declarant owns any property which is subject to this Declaration, (ii) any Builder owns a Homesite primarily for development and/or resale that was purchased from Declarant, or (iii) the Declarant has the right to submit the Additional Property to this Declaration.

1.18. "General Assessment": Assessments levied on all Homesites subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Homesites, as more particularly described in Section 8.1.

1.19. "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Architectural Guidelines, the rules of the Association, and all additional covenants governing any portion of the Properties or any of the above, as each may be amended from time to time.

1.20 "**Homesite**": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as a detached residence for a single family, or an unplatted portion of the Properties. In case the Properties contain any unplatted parcels of land, such land shall be deemed to be a single Homesite until such time as a subdivision plat is filed with respect to all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Homesites determined as set forth in the preceding paragraph and any portions not encompassed by such plat shall continue to be treated as a single Homesite in accordance with this Section.

1.21 "**Majority**": Those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

1.22 "**Member**": A Person subject to membership in the Association pursuant to Section 3.1.

1.23 "**Mortgage**": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Homesite .

1.24 "**Mortgagee**": A beneficiary or holder of a Mortgage.

1.25 "**Owner**": One (1) or more Persons who hold the record title to any Homesite, including the Declarant and any Builders, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.26 "**Person**": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.27 "**Plan of Development**": The land use plan or development plan for "Brookfield Chase," as such plan may be amended from time to time, which plan includes the property described on Exhibit "A" and a portion of the land described on Exhibit "B" of this Declaration. Inclusion of property on the Plan of Development shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property from the Plan of Development bar its later annexation in accordance with Article 7.

1.28 "**Properties**": The real property described on Exhibit "A" as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 7.

1.29 "**Public Records**": The Gwinnett County, Georgia public records.

1.30 "**Special Assessment**": Assessments levied in accordance with Section 8.4.

1.31 "Specific Assessment": Assessments levied in accordance with Section 8.5.

1.32 "Supplemental Declaration": An instrument filed in the Public Records which subjects any portion of the Additional Property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

ARTICLE 2: PLAN OF DEVELOPMENT AND COMMON PROPERTY

2.1. Plan of Development.

(a) Brookfield Chase, is a planned residential community, which, at the time this Declaration is being executed and recorded is intended to consist of 125 Homesites for detached single-family dwellings and certain recreational facilities which shall be Common Property owned by the Association. It is served by public streets and utilities. The community has been developed in accordance with, and is subject to, certain conditions of zoning set forth on the final plat for Brookfield Chase referenced in Exhibit "A," and recorded in the real estate records of Gwinnett County, Georgia (herein referred to as the "Zoning Conditions"). While the Zoning Conditions themselves are not incorporated herein as covenants (and may therefore be amended as any other zoning condition may be amended), the Association shall nonetheless have the responsibility to perform those obligations required of the "homeowners association" referred to within said Zoning Conditions.

(b) In recording this Declaration and in organizing the Association, it is the intention of the Declarant to create a body of rules and regulations whereby the beauty of the Development and the Homesites will be enhanced, and the Owners of the Homesites will have the means of enforcing the same to that end. It is further intended that each Owner have the right to use and enjoy the Common Property to the fullest extent possible, within the guidelines set forth in this Declaration, and subject to such other rules and regulations governing the use of said Common Property as may be adopted by the Board of Directors. In addition, a portion of the Properties and/or Additional Property lies within the "2000 Foot Chattahoochee River Corridor" and all property lying therein, including both Common Property and Homesites, shall be subject to all restrictions which apply to the Chattahoochee River Corridor. The easements established herein and on the recorded subdivision plats of the Development, shall be construed in a manner so as to provide each Owner with access to the Owner's Homesite, for ingress and egress, and for the maintenance thereof, and access to all utilities necessary or convenient for the use and enjoyment of each Homesite. Accordingly, the easements for utilities and drainage established herein and in the recorded plats of the Development in the Common Property, and in the Property, shall be considered appurtenant to each Owner's Homesite, and shall be included with the

conveyance of each Homesite, whether or not such easements are specifically or expressly included or described in the deed conveying the same.

2.2. Common Property - General. Common Property shall include all real property (together with any and all improvements now or hereafter located thereon), and all personal property, both tangible and intangible, owned by the Association for the common use and enjoyment of the Owners, including easements and leaseholds held by the Association for such purpose, and as set forth above, it is intended by Declarant that such Common Property shall include all of the real property within the Development located outside the boundary lines of the Homesites. The Association may acquire, hold, and dispose of all Common Property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests, including, but not limited to easements. Such property shall be accepted by the Association and thereafter shall be maintained, and ownership responsibilities observed by the Association at its expense for the benefit of its Members.

2.3. Common Property - Conveyancing. Conveyances of fee simple parcels of Common Property by the Declarant shall be by Limited Warranty Deed, free of all liens and mortgages, but subject to all matters of record and of survey. Declarant shall not be required to make any improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any lake, pond or other body of water that may be conveyed. The Association covenants and agrees that with respect to improved Common Property, issuance of a certificate of occupancy (if required) by the local governing authority shall be conclusive evidence that said property complies with all building and construction standards. Neither the Declarant nor any successor Declarant shall be responsible for compliance with any requirements prescribed by any local governing authority after the issuance of a certificate of occupancy. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no (or nominal) consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

2.4. Use and Enjoyment of the Common Property. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Property, which is appurtenant to and shall pass with the title to each Homesite, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying Common Property to the Association;

(c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Property, including rules limiting the number of guests who may use the Common Property

(d) The right of the Association to rent, lease or reserve any portion of the Common Property to any Owner for the exclusive use of such Owner and his or her respective lessees, invitees, and guests upon such conditions as may be established by the Board;

(e) The right of the Board to suspend the right of an Owner to use any recreational and social facilities within the Common Property pursuant to Section 4.3;

(f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Property ;

(g) The right of the Board to permit use of any facilities situated on the Common Property by persons other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;

(h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

(i) The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Property, subject to any approval requirements set forth in the Governing Documents;

(j) The right of the Declarant to conduct activities and establish facilities within the Properties as provided in Article 13; and

Subject to the foregoing, any Owner may extend his or her right of use and enjoyment of the Common Property to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Homesite shall be deemed to have assigned all such rights to the lessee of such Homesite.

2.5. Designated Areas of Common Responsibility. The following property and features are designated as "Areas of Common Responsibility" of the Association. While the Association shall not own such property or features, nevertheless, the Association is obligated to maintain the same in accordance with the Community-Wide Standards:

(a) All perimeter walls and fencing, whether located within the boundaries of Homesites or outside the boundaries of Homesites, which have been either established by Declarant, or approved by the ARB;

(b) The storm drainage system established by Declarant and approved by Gwinnett County, which drainage system shall not be disrupted by Owners without approval of the ARB or the County;

(c) Such other Areas of Common Responsibility designated as deemed necessary or appropriate in accordance with this Declaration.

2.6. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Property. No Person shall seek any judicial partition unless the portion of the Common Property which is the subject of such partition action has been removed from the provisions of this Declaration. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.7. Condemnation. The Association shall be the sole representative with respect to condemnation proceedings concerning Common Property and shall act as attorney-in-fact for all Owners in such matters. If any part of the Common Property shall be taken by any authority having the power of condemnation or eminent domain or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, the written consent of the Declarant, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds of such conveyance. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. There shall be only one (1) membership per Homesite. If a Homesite is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.2(a) and in the By-Laws. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association.

3.2 Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) **Class "A"**. Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one (1) equal vote for each Homesite in which they hold the interest required for membership under Section 3.1; provided however, there shall be only one (1) vote per Homesite and no vote shall be exercised for any property which is exempt from assessment under Section 8.9. When more than one Person is a Class "A" Member by virtue of an ownership interest in the same Homesite, the vote for such Homesite shall be exercised as they, among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Homesite. In the event of disagreement among such Persons and an attempt by two or more of them to cast the vote of such Homesite, such Persons shall not be recognized and the vote of such Homesite shall not be counted.

(b) **Class "B"**. The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member shall appoint all or a majority of the members of the Board of Directors during the Class "B" Control Period which shall continue until the first to occur of the following:

(i) Within four (4) months after 100% of the Homesites permitted by the Plan of Development for the property described on Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;

(ii) December 31, 2007; or

(iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

(i) two (2) years after expiration of the Class "B" Control Period; or

(ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Homesite which it owns.

ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 **Function of Association.** The Association shall be the entity responsible for management, maintenance, operation and control of the Common Property and

Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 10. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in such Architectural Guidelines, as may be promulgated and adopted by the ARB. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia.

4.2 Personal Property and Real Property for Common Use. As set forth in Section 2.2, the Association may acquire, hold, and dispose of tangible and intangible personal property and real property, and the Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests, including, but not limited to easements. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(a) imposing monetary fines which shall constitute a lien upon the Homesite of the violator (In the event that any occupant, guest or invitee of a Homesite violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

(c) suspending an Owner's right to vote; provided that any such suspension shall be for the balance of the period in which said Owner shall remain in violation, breach or default, except that in the case of a violation of any use restrictions, or rules and regulations adopted by the Board relating to the use, operation and maintenance of the Common Property, the suspension may be for a period not to exceed sixty (60) days after the cure or termination of such violation;

(d) suspending any Person's right to use any recreational facilities within the Common Property; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Homesite;

(e) suspending any services provided by the Association to an Owner or the Owner's Homesite if the Owner is more than thirty (30) Days delinquent in paying any assessment or other charge owed to the Association; and

(f) in the event any Owner is more than sixty (60) days delinquent in the payment of any assessment, notifying any or all Mortgagees having a security interest in the Owner's Homesite or Homesites that such Owner is in default in the performance of his obligations under this Declaration, and of those actions taken or proposed to be taken by the Association as a result of the default.

In the event that any occupant, guest or invitee of a Homesite violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such occupant, guest or invitee and/or the Owner of the Homesite that the violator is occupying or visiting.

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the correction of any maintenance, construction or other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws. The Association may levy a Specific Assessment to cover all costs incurred in bringing a Homesite into compliance with the Governing Documents.

The Association may also elect to enforce any provisions of the Governing Documents by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county, city, state and federal ordinances, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.4 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Indemnification. The Association shall indemnify every officer, director, ARB member, and committee member against all damages, liabilities, and expenses, including reasonable attorneys fees, incurred 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 he or she may be a party by reason of being or having been an officer, director, ARB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is not otherwise limited under this Section, the Articles of Incorporation and Georgia law.

The officers, directors, ARB members and committee members 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, directors, ARB members, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors, ARB members or committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, ARB member and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, ARB member or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and may obtain officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.6 Dedication of or Grant of Easements on Common Property. The Association may dedicate or grant easements across portions of the Common Property to Gwinnett County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity. The grant of such easements may not relieve the responsibility of the Association to maintain such easements as Areas of Common Responsibility.

4.7 Security. Each Owner and occupant of a Homesite, and their respective guests and invitees, shall be responsible for their own personal safety and the security

of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measure, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Homesite that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Homesites and the contents of Homesites, resulting from acts of third parties.

ARTICLE 5: MAINTENANCE

5.1 Association's Responsibility.

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which may include, but need not be limited to:

- (i) all Common Property ;
- (ii) all designated areas of Common Responsibility described in Section 2.5, or otherwise as determined by Declarant or deemed necessary by the Board;
- (iii) all landscaping and other flora, parks, ponds, structures, and improvements, including any swimming pools, entry features and irrigation systems within the Common Property, parking areas, bike and pedestrian pathways/trails situated upon the Common Property ;
- (iv) all furnishings, equipment and other personal property of the Association;
- (v) any landscaping and other flora, buffers, entry features, structures and improvements included within the entrance monuments within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(vi) such additional portions of any features and property included within the Area of Common Responsibility as may be designated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(vii) all ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith; and

(viii) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

(b) The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, provide maintenance, inspection and service of property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(c) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the Class "A" votes in the Association and, during the Development Period, the Declarant agree in writing to discontinue such operation.

(d) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(e) Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of the Declarant.

(f) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Homesites as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof. Notwithstanding the foregoing, the Board may, within its sole discretion, allocate the expense of maintenance, repair, and replacement which benefits one (1) or more, but less than all Homesites, as a Specific Assessment in accordance with the benefit so received by such Homesites, pursuant to Section 8.5.

(g) In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, the Declarant may, upon not less than ten (10) Days notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Homesite, and all structures, patios, sprinkler and irrigation systems, landscaping and other flora, and other improvements comprising the Homesite in a manner consistent with the Community-Wide Standard and all Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Association. Each Owner shall also maintain the driveway and mailbox serving his or her Homesite. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Homesite and the Owner in accordance with Section 8.4(b). The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3 Standard of Performance. Responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising out of the condition of, property which such Person does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE 6: INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

- (i) Blanket property insurance on any Area of Common Responsibility;
- (ii) Commercial general liability insurance on the Common Properties, all public ways located within the Properties and on the Area of Common Responsibility, insuring the Association and its Members;
- (iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;
- (iv) Fidelity insurance covering all Persons responsible for handling Association funds; and
- (v) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance and directors and officers liability coverage.

In the event of an insured loss, the deductible shall be treated as a Common Expense and assessed against all Homesites. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one (1) or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Homesites pursuant to Section 8.4.

(b) Policy Requirements. The Association shall arrange for annual reviews of the sufficiency of insurance coverage by one (1) or more qualified Persons, at least one (1) of whom must be familiar with insurable replacement costs in the Gwinnett County area.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and to each Member upon request. 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 policy limits satisfy the requirements of Section 6.1(a).

- (i) All insurance coverage obtained by the Board shall:

(1) be written with a company authorized to do business in the State of Georgia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(2) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Properties shall be for the benefit of the Association and its Members;

(3) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(4) contain an inflation guard endorsement;

(5) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(ii) In addition, after the Class "B" Control Period ends, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(1) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(2) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(3) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(4) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(5) a cross liability provision; and

(6) a provision vesting the Board with the exclusive authority to adjust losses; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) **Damage and Destruction.** In the event of any insured loss to the Common Property, only the Board or its duly authorized agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Property shall be repaired or reconstructed unless the Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and during the Development Period the Declarant decide within sixty (60) Days after the loss not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Property shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Property shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared and maintained by the Association consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Homesite .

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall.

6.2 Owners' Insurance. By virtue of taking title to a Homesite, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Homesite, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Homesite, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. Alternatively, the Owner shall clear the Homesite of all debris and ruins and maintain the Homesite in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1. Annexation by Declarant. Until seven (7) years after the recording of this Declaration in the Public Records, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the Additional Property. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the Additional Property in any manner whatsoever.

7.2. Annexation by Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members holding a Majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and, during the Development Period, the written consent of the Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the president and the secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period, for the purpose of removing any portion of the Properties from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Property, the Association shall consent to such withdrawal.

7.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association

through Specific Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5 Amendment. This Article shall not be amended during the Development Period without the prior written consent of Declarant.

ARTICLE 8: ASSESSMENTS

8.1 Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be three (3) types of assessments: (a) General Assessments as described in Section 8.3; (b) Special Assessments as described in Section 8.4; and (c) Specific Assessments as described in Section 8.5. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorneys fees, shall be a charge and continuing lien upon each Homesite against which the assessment or charge is made until paid, as more particularly provided in Section 8.6. Each such assessment or charge, together with interest, late charges, costs, and reasonable attorneys fees, also shall be the personal obligation of the Person who was the Owner of such Homesite at the time the assessment arose. Upon a transfer of title to a Homesite, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Homesite by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a written statement signed by an Association officer or designee setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Homesite and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the General

Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Homesite, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Property, abandonment of his or her Homesite, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2 Declarant's Obligation for Assessments. Unless required as a matter of law, neither the Declarant, predecessor Declarants, nor any Builder who has purchased land from Declarant for the purpose of erecting a dwelling thereon, shall at any time be subject to any annual or special assessments. During the Class "B" Control Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials, which may be treated as either a contribution or an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years, unless otherwise provided in a written agreement between the Association and the Declarant. Notwithstanding the preceding, the full annual assessment will commence as to each Homesite owned by Declarant, predecessor Declarants, or a Builder upon its occupancy as a residence. In addition and notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution.

8.3 Computation of General Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a contribution to establish a reserve fund.

General Assessments shall be levied equally against all Homesites subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including any reserves. In determining the level of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years, and any assessment income expected to be generated from any additional Homesites reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) Days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-Laws, which petition must be presented to the Board within twenty (20) Days after delivery of the notice of assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. In such event or if the budget proves inadequate for any reason, the Board may prepare a revised budget for the remainder of the fiscal year. The Board shall send a copy of the revised budget to each Owner at least thirty (30) Days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.4 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments shall be allocated equally among all Homesites; provided, however, that Builders' Homesites shall not be subject to Special Assessments. Any Special Assessment shall become effective unless disapproved at a meeting by Members holding at least 67% of the total Class "A" votes and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for special meetings in the By-Laws, which petition must be presented to the Board within twenty (20) Days after delivery of the notice of such Special Assessment. During the Development Period any Special Assessment shall require the written consent of the Declarant. Special Assessments shall be payable in such manner and at such times as determined by the Board, and

may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Homesite or Homesites as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Homesite(s) or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, janitorial service, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Homesite (s) into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Homesite, their agents, contractors, employees, licensees, invitees, or guests.

In addition, fines levied by the Association pursuant to Section 4.3 shall constitute Specific Assessments.

8.6 Lien for Assessments. The Association shall have a lien against each Homesite to secure payment of assessments and other charges, as well as interest at a rate to be set by the Board (subject to the maximum interest rate limitations of Georgia law), late charges in such amount as the Board may establish (subject to the limitations of Georgia law), costs of collection and reasonable attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

The Declarant or the Association may bid for the Homesite at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Homesite. While a Homesite is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Homesite shall be charged, in addition to its usual assessment, its pro rata share of the assessment allocated to the Homesite owned by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Homesite shall not affect the assessment lien or relieve such Homesite from the lien for any subsequent assessments. However, the sale or transfer of any Homesite pursuant to foreclosure of the first Mortgage shall

extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Homesite who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Homesite due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Homesites subject to assessment under Section 8.3, including such acquirer, its successors and assigns.

All other Persons acquiring liens or encumbrances on any Homesite after this Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

8.7 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Homesite on the date which the Homesite is conveyed to a Person other than a Builder or Declarant. The first annual General Assessment, if any, levied on each Homesite shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Homesite. Notwithstanding the foregoing, until such time as the Class "B" Control Period expires, Declarant shall have the right to delay the commencement of General Assessments.

8.8 Failure to Assess. Failure of the Board to establish assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.9 Exempt Property. The following property shall be exempt from payment of assessments:

(a) All Common Property and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Sections 2.5 and 5.1; and

(b) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility.

8.10 Capitalization of Association. Upon acquisition of record title to a Homesite by the first Owner thereof other than the Declarant or a Builder or upon occupancy of a Homesite by a Person other than a Builder or Declarant, a contribution shall be made by the purchaser or occupant to the working capital of the Association in an amount to be determined by the Board of Directors, but in no event less than one-

sixth (1/6th) of the annual General Assessment per Homesite for that year, and no more than the full annual General Assessment per Homesite for that year. Referred to as the "Working Capital Contribution," this amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Homesite to the first Owner, or if the obligation to make the capital contribution arises by virtue of occupancy of a Homesite by a Person other than a Builder or Declarant, the Working Capital Contribution shall be paid immediately upon demand by the Association. Working Capital Contributions shall be used by the Association in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents.

8.11 Contributions by Declarant.

(a) In accordance with subsection 8.2 above, the Declarant may support the Association by funding operating deficits during the Class "B" Control Period. At the sole election of Declarant, Declarant may recoup from the Association all such payments, which amounts may be paid from the operating account of the Association, or from the Working Capital Contributions collected at the sale of Homesites, but not from capital reserves. Whether or not the Declarant recoups any other deficit amounts, it is not the intention of the Declarant to forfeit refundable reserves or deposits paid by Declarant, nor to pay for deficits created by the nonpayment of assessments by an Owner or Owners. It is also not the intention of Declarant to pay for expenses which are otherwise covered in the annual budget of the Association, but which, due to the requirement of an advance payment, create temporary or seasonal deficits. Accordingly, Declarant shall be reimbursed for all amounts paid by Declarant in the funding of deficits caused by the nonpayment of assessments by an Owner or Owners which, if not sooner paid, shall be paid to Declarant at the time the unpaid assessment is collected. In addition, if not sooner paid, Declarant shall be reimbursed for any refundable deposit upon the Association's receipt of the same.

(b) All deficits shall be collectible by Declarant at any time from the Working Capital Contributions or from excess funds not designated for capital reserves. The Declarant shall have the right to pursue the collection of any unpaid assessments on behalf of the Association, as well as the right to act on behalf of the Association (if necessary) in obtaining refunds of all deposits paid for by Declarant. The Board of Directors, specifically including members of the Board appointed by the Declarant, shall be authorized to execute a promissory note or notes on behalf of the Association to further evidence the obligations of the Association established herein. The failure to execute such a note shall in no way diminish the obligations created hereby.

(c) In no event shall the Association's obligation to reimburse the Declarant as set forth in this Section relieve the Declarant of the obligation to pay assessments for Homesites which are occupied as a residence in accordance with Section 8.2 above;

however, the Declarant may set off amounts due as assessments against amounts owed Declarant hereunder.

(d) This Section may only be amended with the prior written consent of the Declarant, and each Owner, by acceptance of a deed to a Homesite in the Properties, and the Association, shall be deemed to have approved of the reimbursements to Declarant required by this Section.

ARTICLE 9: ARCHITECTURAL STANDARDS

9.1. **General.** No exterior structure or improvement, as described in Section 9.4, shall be placed, erected, installed or made upon any Homesite or adjacent to any Homesite where the purpose of the structure is to service such Homesite except in compliance with this Article, and with the prior written approval of the ARB under Section 9.2, unless exempted from the application and approval requirements pursuant this Section. In addition, if the Homesite lies within the 2000 Foot Chattahoochee River Corridor as shown on the recorded subdivision plats, the approval of the Atlanta Regional Council or other regulating authority shall be obtained prior to and be included in the request for ARB approval.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or other qualified building designer.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Property by or on behalf of the Association. This Article may not be amended during the Development Period without the Declarant's written consent.

9.2. **Architectural Review.** Responsibility for administration of the Architectural Guidelines and review of all applications for construction and modifications under this Article shall be handled by the ARB, the members of which need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals.

The ARB shall consist of one (1) to five (5) persons and shall have exclusive jurisdiction over all construction on any portion of the Properties. Until one hundred percent (100%) of the Properties have been developed and conveyed to Owners other than Builders and the Declarant and initial construction on each Homesite has been completed in accordance with the Architectural Guidelines, the Declarant retains the right to appoint all members of the ARB who shall serve at the Declarant's discretion.

There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board shall appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion.

9.3. Guidelines and Procedures.

(a) **Architectural Guidelines.** The Declarant may, but shall not be obligated to, prepare Architectural Guidelines for the Properties. The Architectural Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one (1) portion of the Properties to another depending upon the location, unique characteristics, and intended use. The Architectural Guidelines, if promulgated and adopted, are intended to provide guidance to Owners and Builders regarding matters of particular concern to the ARB in considering applications hereunder, but shall not be the exclusive basis for decisions of the ARB, and compliance with the Architectural Guidelines does not guarantee approval of any application.

Architectural Guidelines, if promulgated, shall be adopted by the ARB, which shall have sole and full authority to amend them. Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines and the ARB is expressly authorized to amend the Architectural Guidelines to remove requirements previously imposed or otherwise to make the Architectural Guidelines less restrictive. The ARB shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties.

(b) **Procedures.** Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARB for review and approval (or disapproval). In addition, information concerning septic tank drainage fields and placement (if applicable), irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Architectural Guidelines. In reviewing each submission, the ARB may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations. Decisions may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

In the event that the ARB fails to approve or to disapprove any application within thirty (30) Days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether

expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Architectural Guidelines unless a variance has been granted in writing by the ARB pursuant to Article 9.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Any Owner may remodel, paint or redecorate the interior of structures on his or her Homesite without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Homesite visible from outside the structures on the Homesite shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

9.4. Regulated Structures and Other Matters Concerning Enforcement

(a) Exterior Structures and Improvements. Exterior structures and improvements shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; installation or replacement of mailboxes; basketball hoops; swing sets and similar sports and play equipment; clotheslines; garbage cans; wood piles; swimming pools; docks, piers, or boathouses; gazebos or playhouses; window air-conditioning units or fans; hot tubs; wells; solar panels; antennas; satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; hedges, walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; and planting or removal of landscaping materials. Notwithstanding the foregoing, the Declarant and the Association shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal laws and regulations.

(b) Specific Guidelines. In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the ARB shall have the right, in its sole discretion, to prohibit or restrict these items within the Properties. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the ARB. The ARB may, but is not required to, adopt specific guidelines as part of the Architectural Standards or rules and regulations which address the following items.

(i) Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB, except (1) such signs as may be required by legal proceedings; and (2) not more than one (1) professional security sign of such size deemed reasonable by the ARB in its sole discretion. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or

occupant within any portion of the Properties, including the Common Property, any Homesite, any structure or dwelling located on the Common Property or any Homesite (if such sign would be visible from the exterior of such structure or dwelling as determined in the ARB's sole discretion).

The Declarant and the ARB reserve the right to prohibit signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the marketing and development of the Properties.

(ii) **Lighting.** Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Homesite; (2) street lights in conformity with an established street lighting program for the Properties; (3) seasonal decorative lights during the usual and common season; or (4) front house illumination of model homes.

(iii) **Temporary or Detached Structures.** Except as may be permitted by the ARB during initial construction, no temporary house, dwelling, garage or outbuilding shall be placed or erected on any Homesite. Except as provided in Section 13.2, no mobile home, trailer home, travel trailer, camper or recreational vehicle shall be stored, parked or otherwise allowed to be placed on a Homesite as a temporary or permanent dwelling.

(iv) **Accessory Structures.** Accessory structures may only be placed on a Homesite with the prior approval of the ARB. Any such accessory structures shall conform in exterior design and quality to the dwelling on the Homesite.

(v) **Fences.** Fencing of a Homesite must be approved by the ARB.

(vi) **Window Treatments.** Unless otherwise approved in writing by the ARB, all windows on any structure or dwelling shall have window treatments, and any portion thereof visible from outside such structure or dwelling shall be white or off-white in color.

(vii) **Tree Removal.** No trees that are more than six (6) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the ARB; provided however, any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a sidewalk, a residence, or a driveway, or any diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons may be removed without the written consent of the ARB. The ARB may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed.

(viii) **Utility Lines.** Overhead utility lines, including lines for cable television, are not permitted except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(ix) **Mailboxes.** All dwellings within the Properties shall have standard mailboxes conforming to postal regulations and the guidelines for such mailboxes adopted by the ARB. The ARB reserves the right to approve the style, design, color and location prior to installation or replacement of any mailbox. Application shall be made to the ARB prior to installation or replacement. By accepting a deed to a Homesite, each Owner agrees that the ARB may remove any non-approved mailbox in a reasonable manner; all costs for same shall be paid by Owner of such Homesite, and all claims for damages caused by the ARB are waived.

9.5. Construction Period. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. The initial construction of all structures must be completed within one (1) year after commencement of construction, unless extended by the ARB in its sole discretion. All other construction shall be completed within the time limits established by the ARB at the time the project is approved by the ARB.

For the purposes of this Section, commencement of construction shall mean that (a) all plans for such construction have been approved by the ARB; (b) a building permit has been issued for the Homesite by the appropriate jurisdiction; and (c) construction of a structure has physically commenced beyond site preparation. Completion of a structure shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the Homesite .

9.6. No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.7. Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.8. Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and

enhancing the overall aesthetics of the Properties only, and shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither the Declarant, the Association, the Board, nor the ARB shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners. Neither the Declarant, the Association, the Board, the ARB or any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Homesite. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in Section 4.5.

9.9. Enforcement. The Declarant, any member of the ARB or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter upon any Homesite to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARB Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore the property as required, after compliance with any procedures established by the Governing Documents any authorized agent of Declarant, the ARB, or the Board shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant and the ARB by any means of enforcement described in Section 4.3. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Homesite and collected as a Specific Assessment.

Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Homesite, unless approval to modify any application has been obtained. If, after commencement, any Person fails to diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Homesite and an opportunity to be heard in accordance with the By-Laws, to enter upon the Homesite and remove or complete any incomplete work and to assess all costs incurred against the Homesite and the Owner thereof as a Specific Assessment.

Neither the ARB or any member of the foregoing nor the Association, the Declarant, or their members, officers or directors shall be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent,

employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Architectural Guidelines may be excluded by the ARB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB.

ARTICLE 10: USE RESTRICTIONS

10.1. General. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Homesite. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, sales offices for Builders, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A" or "B," offices for any property manager retained by the Association, business offices for the Declarant or the Association or related parking facilities) consistent with this Declaration and any Supplemental Declaration. Any of the Properties, whether Common Property or a Homesite, which lies within the 2000 Foot Chattahoochee River Corridor is subject to the rules and regulations of the Atlanta Regional Council or other regulatory agency which controls the land use for property included therein.

10.2. Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such 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, canceled, or modified in a regular or special meeting by Members holding a Majority of the total Class "A" votes in the Association, and, during the Development Period, the written consent of the Declarant, and where applicable, any predecessor Declarant.

10.3. Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Architectural Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned.

10.4. Leasing. Homesites may be leased for residential purposes only. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing. The Board may require notice of any lease together with such additional information deemed necessary by the Board.

10.5. Residential Use. Homesites may be used only for residential purposes of a single family and for ancillary business or home office uses. A business or home office use shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Homesite; (b) the activity conforms to all zoning requirements for the Properties; (c) the activity does not involve regular visitation of the Homesite by clients, customers, suppliers, or other invitees or door-to-door solicitation of residents of the Properties; (d) the activity does not increase traffic or include frequent deliveries within the Properties; and (e) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

No other business, trade, or similar activity shall be conducted upon a Homesite without the prior written consent of the Board. 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: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Homesite shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Homesites which it owns within the Properties; including the operation of a timeshare or similar program.

10.6. Occupancy of Unfinished Homesites. No dwelling erected upon any Homesite shall be occupied in any manner before commencement of construction or while in the course of construction, nor at any time prior to the dwelling being fully completed.

10.7. Vehicles.

(a) Automobiles and non-commercial trucks and vans shall be parked only in the garages or in the driveways, if any, serving the Homesites unless otherwise approved by the ARB; provided however, the Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. No automobile or non-commercial truck or van may be left upon any portion of the Properties, 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. Such vehicle shall be considered a nuisance and may be removed from the Properties. No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles authorized by the Board.

(b) Recreational vehicles shall be parked only in the garages, if any, serving the Homesites or, with the prior written approval of the ARB, other hard-surfaced areas which are not visible from the street; provided however, guests of an Owner or occupant may park a recreational vehicle on the driveway serving such Owner's or occupant's Homesite for a period not to exceed seven (7) Days each calendar year. "Visibility" shall be determined by the ARB in its sole discretion. The term "recreational vehicles," as used herein, shall include, without limitation, motor homes, mobile homes, boats, "jet skis" or other watercraft, trailers, other towed vehicles, motorcycles, minibikes, scooters, go-carts, golf carts, campers, buses, commercial trucks and commercial vans. Any recreational vehicle parked or stored in violation of this provision in excess of seven (7) Days shall be considered a nuisance and may be removed from the Properties. The Declarant and/or the Association may designate certain parking areas within the Properties for recreational vehicles subject to reasonable rules and fees, if any.

(c) Service and delivery vehicles may be parked in the Properties during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery within the Properties.

(d) All vehicles shall be subject to such reasonable rules and regulations as the Board of Directors may adopt.

10.8. Parking. Vehicles shall be parked only in the garages or in the driveways, if any, serving the Homesites or in appropriate spaces or areas designated by the Board. Vehicles shall be subject to such reasonable rules and regulations as the Board may adopt. The Declarant and/or the Association may designate certain parking areas for visitors or guests. Service and delivery vehicles may be parked in the Properties during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery to a Homesite or to the Common Property. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Governing Documents. The provisions of this section shall not apply to Declarant or to any Builder in the process of constructing approved improvements.

10.9. Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without the prior written consent of the Association, except as specifically provided herein.

With the prior written approval of the Board of Directors, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Property for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Property as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

10.10. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Homesite, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board. No animals shall be kept, bred or maintained for commercial purposes without prior written Board approval. All pets shall be reasonably controlled by the owner whenever outside a Homesite, shall be kept in such a manner as to not become a nuisance by barking or other acts. The owners of the pet shall be responsible for all of the pet's actions. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, such animal shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3.

10.11. Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Homesite 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 Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. 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 Properties. 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 or as approved by the ARB, shall be located, installed or maintained upon the exterior of any Homesite unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically.

The development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.

10.12. Storage of Materials, Garbage, Dumping, Etc. All garbage cans 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. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake within the Properties, except that fertilizers may be applied to landscaping on Homesites provided care is taken to minimize runoff.

Each Owner shall maintain its Homesite in a neat and orderly condition throughout initial construction of a residential dwelling and not allow trash and debris from its activities to be carried by the wind or otherwise scattered within the Properties. Storage of construction materials on the Homesite shall be subject to such conditions, rules, and regulations as may be set forth in the Architectural Guidelines. Each Owner shall keep roadways, easements, swales, and other portions of the Properties clear of silt, construction materials and trash from its activities at all times. Trash and debris during initial construction of a residential dwelling shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Homesites and shall not be buried or covered on the Homesite. Any Homesite on which construction is in progress may be policed prior to each weekend, and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed. In addition, Owners shall remove trash and debris from the Homesite upon reasonable notice by Declarant in preparation for special events.

10.13. Combustible Liquid. There shall be no storage of gasoline, propane, heating or other fuels, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Homesite for emergency purposes and operation of lawn mowers and similar tools or equipment and except as may be approved in writing by the ARB. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.14. Guns. The discharge of firearms on the Properties is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board may impose fines and exercise other enforcement remedies as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop any such discharge.

10.15. Subdivision of Homesite. No Homesite shall be subdivided or its boundary lines changed after a subdivision plat including such Homesite has been approved and filed in the Public Records without the Declarant's prior written consent during the Development Period and the prior written consent of the ARB thereafter. In addition, no home shall be subdivided or partitioned to create housing for more than a single family. Declarant, however, hereby expressly reserves the right to replat any Homesite or Homesites which it owns. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.16. Sight Distance at Intersections. All property located at street intersections or driveways shall be landscaped and improved so as to permit safe sight across such areas. No fence, wall, hedge or shrub shall be placed or permitted to remain where it would cause a traffic or sight problem.

10.17. Drainage and Grading.

(a) Catch basins and drainage areas are for the purpose of natural flow of water only. No improvements, 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.

(b) Unless otherwise indicated in this Declaration or by other instrument establishing a drainage area, each Owner shall be responsible for maintaining all drainage areas located on its Homesite. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

(c) Each Owner shall be responsible for controlling the natural and man-made water flow from its Homesite. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Properties with excessive water flow from its Homesite. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Homesites. Neither the Association nor the Declarant bears any responsibility for remedial actions to any Homesite.

(d) Use of any areas designated as "drainage easement areas" on any recorded subdivision plat of the Properties, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas, and the right of the Declarant to enter upon and maintain the drainage easement areas. Such maintenance activities may include disturbance of landscaping pursuant to the terms contained in any declaration of easements, notwithstanding approval of the landscaping as set forth in Article 9.

(e) No Person shall alter the grading of any Homesite without prior approval pursuant to Article 9 of this Declaration. The Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Homesite without the Owner's consent.

(f) All Persons shall comply with any and all applicable city and county erosion control ordinances in construction of improvements on any Homesite and in conducting any activity within non-disturbance buffer zones.

10.18. Irrigation. Owners shall not install irrigation systems which draw upon ground or surface waters nor from any lakes or ponds within the Properties. However, the Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility.

10.19. Streams. No streams which run across any Homesite may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in Article 11.

ARTICLE 11: EASEMENTS

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Association, the Members, and the Owners, and their successors-in-title.

11.1. Easements of Encroachment. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Homesites and between each Homesite and any adjacent Common Property due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.2. Easements for Utilities, Etc.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself during the Development Period, for the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) upon, across,

over, and under all of the Properties to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, sewer, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above.

Declarant may assign to the local water supplier, sewer service provider, electric company, telephone company, and natural gas supplier the easements set forth herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) Declarant reserves, creates, establishes, promulgates and declares for itself during the Development Period and its designees non-exclusive, perpetual, appurtenant easements, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

(c) Any damage to a Homesite resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Homesite, nor shall it unreasonably interfere with the use of any Homesite, and except in an emergency, entry onto any Homesite shall be made only after reasonable notice to the Owner or occupant.

(d) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3 Easements to Serve Additional Property. The Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself and its duly authorized successors and assigns, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads, for the posting of signs, and for connecting and installing utilities serving the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common

Area as a result of vehicular traffic connected with development of the Additional Property.

11.4. Easement for Slope Control, Drainage and Waterway Maintenance.

Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself, and the Association, and their respective representatives, successors and assigns, contractors and agents, over, across, under, through and upon each Homesite for the purposes of:

(a) controlling soil erosion; including grading and planting with vegetation any areas of any Homesite which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Properties;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Homesite or Common Area;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties; and

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties.

11.5. Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual easements for the Association to enter upon any Homesite for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Homesite shall be only during reasonable hours and after notice to and permission from the Owner. This easement includes the right to enter any Homesite to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

There shall also exist non-exclusive, perpetual easements for each Owner to access Owner's Homesite for maintenance and repair. This easement shall be construed liberally, and each Owner agrees to cooperate with other Owners and the Board of Directors to permit such access as may be necessary to conduct maintenance and repairs to party walls or fences between adjoining Homesites.

11.6. Easements for Maintenance and Enforcement. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual easements for the Association to enter all portions of the Properties, including each Homesite, to (a) perform its maintenance responsibilities under Article 5, and (b) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Homesite shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense. Entry under this Section shall not constitute a trespass.

The Association also may enter a Homesite to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys fees, may be assessed against the violator as a Specific Assessment.

11.7. Lateral Support. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Property, every Homesite, and any improvement which contributes to the lateral support of another portion of the Common Property or of another Homesite shall be burdened with an easement for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.8. Easement for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, non-exclusive reciprocal, appurtenant easement over the Common Property for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Homesite, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Homesite to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

11.9. Easement for Greenbelt Maintenance.

(a) The Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon greenbelts, buffer zones and nondisturbance areas located within the Area of Common Responsibility to remove trash and other debris therefrom and to fulfill maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be automatically transferred to the Association at the expiration of the Development Period or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of a greenbelt, buffer zone or nondisturbance area to the extent reasonably necessary to exercise their rights under this Section.

(b) Encroachment of structures into, over, or across greenbelts, buffer zones and nondisturbance areas shown on any recorded subdivision plat of the Properties is strictly prohibited. Landscaping in these areas is subject to removal in the reasonable discretion of Declarant in the ordinary course of maintenance of these areas. Any landscaping permitted shall be installed in conformance with Article 9 herein. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements.

(c) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.10. Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, its successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Properties, except in cases of willful or wanton misconduct.

ARTICLE 12: MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Homesites in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1. 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 street address of the

Homesite to which its Mortgage relates, thereby 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 Properties or which affects any Homesite 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 a Homesite subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) Days, or any other violation of the Declaration or By-Laws relating to such Homesite or the Owner or Occupant 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 Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2. Right to Records. Upon written request in accordance with Section 12.1, all eligible holders shall:

(a) be entitled to attend and observe all meetings of Owners, but not meetings of the Board;

(b) be furnished with copies of annual financial reports made to the Owners; and

(c) be entitled to inspect the financial bonds and records of the Association during reasonable business hours.

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

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

12.5. 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,

provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.6. Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Georgia law for any of the acts set out in this Article.

ARTICLE 13: DECLARANT'S RIGHTS

13.1. Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.2. Development and Sales. The Declarant and Builders authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Homesites, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Property during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Property. The Declarant and authorized Builders shall have easements over the Properties for access, ingress and conducting such activities.

In addition, the Declarant and Builders authorized by Declarant may establish within the Properties, including any clubhouse, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Homesites, including, but not limited to, business offices, signs, model homes, tents, sales offices, sales centers and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and authorized Builders shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Property by Persons other than Owners without the payment of any use fees.

13.3. Common Properties. In addition to any real property and easements that may be described elsewhere in this Declaration as Common Property, the Declarant

may convey, or cause to be conveyed, to the Association such other real and personal property as the Declarant, in Declarant's sole discretion, may determine to be necessary or proper for ownership by the Association as Common Property. The Association hereby covenants and agrees to accept all conveyances of Common Property made or caused to be made by Declarant. Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Properties owned by the Declarant and designated as Common Property, (or which is designated by any words which similarly signify such property is for the use of the Owners in the Development) whether by recorded plat of survey or otherwise, or designated for public use, shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority. Declarant hereby reserves the right, but not the obligation, to be exercised in its sole discretion, to designate the boundaries of all Homesites and Common Property within the Properties as they are developed and platted and to construct improvements thereon. Declarant shall have the right, but not the obligation, to make improvements and changes to all Common Property and to all Homesites owned by Declarant, including, without limitation, (i) installation and maintenance of any improvements in and to the Common Property, (ii) changes in the location of the boundaries of any Homesite owned by the Declarant or of the Common Property, (iii) installation and maintenance of any storm drainage system and water, sewer and other utility systems and facilities; and (iv) installation of security and/or refuse facilities. In accordance with the preceding, Declarant reserves the right to record, modify, amend, revise and add to, at any time and from time to time, any recorded plat or supplemental plats of the Development, setting forth such information as Declarant may deem necessary with regard to the Development, including without limitation, the locations and dimensions of the Homesites, Common Property, Additional Property (if any), roads, utility easements and systems, drainage easements and systems, right-of-way easements, and setback line restrictions. In addition to other reasons, the rights reserved to Declarant herein are for the purpose of allowing the expansion of the Development to include additional land, and to specifically allow the reconfiguration of Homesites and the roads serving the Development and the extension of roads into the Additional Property, if any. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Property for the purpose of making, constructing and installing such improvements to the Common Property as it deems appropriate in its sole discretion.

13.4. Application of Architectural Guidelines. The provisions contained in Articles 9 and 10, as well as all other architectural control provisions, including but not limited to building setbacks, contained in this Declaration, the Articles of Incorporation or the Bylaws, shall not apply to Declarant, nor to any predecessor Declarants. In addition, said provisions shall not apply to any Builder who acquires a Homesite from Declarant, any predecessor Declarants, or through other Builders who had acquired the Homesite from said parties for the purpose of constructing a dwelling thereon; provided, however, any such Builder must submit to and have its plans and specifications approved by Declarant, if title to the Homesite passed through Declarant, and provided

further, if title to the Homesite passed through a predecessor Declarant, and said predecessor still owns at least one (1) Homesite for sale in the Development, then such plans and specifications must only be approved by said predecessor. This Section 13.4 may only be amended with the prior written consent of the Declarant during the Development Period, and with the prior written consent of any predecessor Declarants still owning at least one (1) Homesite for sale.

13.5. Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section 7.3, may conflict with the Declaration, By-Laws or Articles.

13.6. Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Governing Documents, or interfere with development of, construction on, or marketing of any portion of the Properties, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to the Class "B" Member or the Declarant in the Governing Documents.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Class "B" Member has registered with the secretary of the Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting.

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of

subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Class "B" Member exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

13.7. Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Architectural Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written consent of the Declarant. This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) expiration of the Development Period, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE 14: GENERAL PROVISIONS

14.1. Duration.

(a) Except as otherwise limited by Georgia law, this Declaration shall have perpetual duration. If Georgia law limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each. Notwithstanding the above, 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.

(b) The Association may not be dissolved unless:

(i) 100% of the Class "A" Members approve in a Special Meeting called for each purpose; and

(ii) the prior approval of all government authorities and lending institutions having jurisdiction or interests in the Properties are obtained; and

(iii) during the Development Period, the written consent of Declarant.

14.2. Amendment.

(a) By Declarant. Subject to the provisions of Article 12, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Homesites; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Homesites; (iv) to satisfy the requirements of any local, state or federal governmental agency; or, (v) to correct a scrivener's error. However, any such amendment shall not adversely affect the title to any Homesite unless the Owner shall consent in writing. In addition, during the Development Period, Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By the Board. The Board shall be authorized to amend this Declaration without the consent of the Members (i) for the purpose of submitting the Properties to the Georgia Property Owners' Association Act, O.C.G.A. '44-3-220, et seq. (1994) and conforming this Declaration to any mandatory provisions thereof, and (ii) to correct scriveners' errors and other mistakes of fact, provided that amendments under this provision have no material adverse effect on the rights of the Owners. During the Development Period, any such amendment shall require the written consent of the Declarant.

(c) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Association, including sixty-seven percent (67%) of the Class "A" votes held by Members other than the Declarant, and, during the Development Period, the written consent of the Declarant. In addition, approval requirements set forth in Article 12, if any, shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances

operate to amend any provisions of this Declaration. During the Development Period, no amendment may remove, revoke, or modify any right, privilege or exemption of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right, privilege or exemption. In addition, for so long as any predecessor Declarant owns at least one Homesite primarily for sale, no amendment may remove, revoke, or modify any right, privilege or exemption of said predecessor Declarant without the written consent of said predecessor Declarant.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

14.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order, shall in no way affect other provisions or applications.

14.4. Dispute Resolution. Any Owner or occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or occupant files any lawsuit against the Association, the Board, any director, or any agent of the Association. The Owner or occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and to resolve the dispute in an amicable fashion and shall give the Board a reasonable opportunity to address the Owner's or occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) nor more than twenty-one (21) Days from the date of receipt of the notice of hearing by the person requesting the hearing.

14.5. Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members holding ninety percent (90%) of the total Association vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

14.6. Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

14.7. Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted in this Declaration.

14.8. Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations, and the Association may, but shall not be required to, enforce such additional covenants, conditions, and provisions; provided however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and use restrictions and rules of the Association shall prevail. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

14.9. Use of the Words "Brookfield Chase". No Person shall use the words "Brookfield Chase" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "Brookfield Chase" in printed or promotional matter where such terms are used solely to specify that particular property is located within Brookfield Chase and the Association and any other community association located in Brookfield Chase. shall be entitled to use the words "Brookfield Chase" in its name.

14.10 Compliance. Every Owner and occupant of any Homesite shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

14.11. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to a Homesite shall give the Board at least seven (7) Days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Homesite, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

14.12. Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 14.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

(EXECUTION ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 17th day of July, 2002.

Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness

DECLARANT:
CENTEX HOMES, by its managing general partner, CENTEX REAL ESTATE CORPORATION

BY: [Signature]
Tom Houser, Division President

[Signature]
Notary Public

(CORPORATE SEAL)

My Commission expires

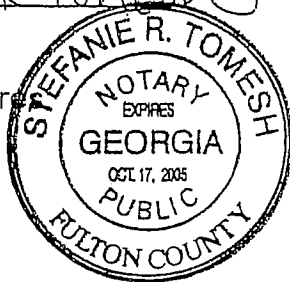


EXHIBIT "A"

Land Initially Submitted

All that certain land lying and being in Land Lots 300 and 318 of the 6th District of Gwinnett County, Georgia, and being more particularly described and depicted on that certain Final Plat of Brookfield Chase, Phase One, prepared by Clark Design Group, P.C., dated Aug 7th, 2002, and recorded in Plat Book 94, Pages 244 through 248, inclusive, in the Public Records of Gwinnett County, Georgia (the "Plat").

EXHIBIT "B"

Additional Property

All those certain lots, parcels or tracts of land lying and being within one-half (2) miles of the boundaries of the land described on Exhibit "A" hereof.

Upon recording, please return to:
Lon Grayston Bryant, Esq.
Centex Homes
1750 Founders Parkway, Suite 126D
Alpharetta, GA 30004

STATE OF GEORGIA
COUNTY OF FULTON

Reference: Deed Book 28374, Page
01, Gwinnett County Records

**SUPPLEMENTAL DECLARATION OF COVENANTS CONDITIONS,
AND RESTRICTIONS FOR BROOKFIELD CHASE**

THIS SUPPLEMENTAL DECLARATION is made this 7th day of October, 2002, by
CENTEX HOMES, a Nevada general partnership (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Centex Homes prepared and filed of record that certain Declaration of
Covenants, Conditions and Restrictions for Brookfield Chase in Deed Book 28374, Page 01, et seq.,
in Gwinnett County, Georgia public records (herein referred to as the "Declaration"); and

WHEREAS, Centex Homes, as Declarant and pursuant to the terms of Article 13 of the
Declaration, may submit all or portions of the "Additional Property" described therein to the terms
of the Declaration; and

WHEREAS, Declarant, as the owner of the real property described in Exhibit "A" desires
to submit the real property described in Exhibit "A" to the terms and conditions of the Declaration.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration,
Declarant hereby subjects the real property described on Exhibit "A" hereof to the provisions of the
Declaration and this Supplemental Declaration, which shall apply to such property in addition to the

provisions of the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, both of which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplemental Declaration shall be binding upon Brookfield Chase Homeowners Association, Inc. in accordance with the terms of the Declaration:

ARTICLE 1

Definitions

The definitions set forth in Article 1 of the Declaration are incorporated herein by reference.

ARTICLE 2

Declaration

Except as specifically amended hereby, the Declaration and all terms thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration the day and year first above written.

DECLARANT:

CENTEX HOMES, a Nevada general partnership,
By: Centex Real Estate Corporation, its general partner

By: *Christina Strickland*
Name: Christina Strickland
Its: Division Controller

(SEAL)

SIGNED, sealed and delivered
in the presence of:

[Signature]

Witness

Stephanie R. Tomesh

Notary Public
My Commission Expires

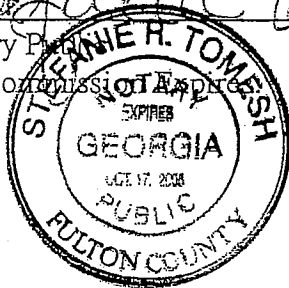


EXHIBIT "A"

ALL THOSE TRACTS or parcels of land lying and being in Land Lots 300 & 318, of the 6th District of Gwinnett County, Georgia, as shown on that certain Final Plat of Brookfield Chase, Phase Two, prepared for Centex Homes and recorded, in Plat Book 95, Page 272, Gwinnett County, Georgia records.

BYLAWS

BY-LAWS
OF
BROOKFIELD CHASE HOMEOWNERS ASSOCIATION, INC.

Adopted by the Board of Directors
December, 2002

- TABLE OF CONTENTS -

	<u>Page</u>
ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS	1
1.1. Name	1
1.2. Principal Office	1
1.3. Definitions	1
ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES	1
2.1. Membership	1
2.2. Place of Meetings	1
2.3. Annual Meetings	1
2.4. Special Meetings	2
2.5. Notice of Meetings	2
2.6. Waiver of Notice	2
2.7. Adjournment of Meetings	2
2.8. Voting	2
2.9. List for Voting	2
2.10. Proxies	3
2.11. Quorum	3
2.12. Conduct of Meetings	3
2.13. Action Without a Meeting	3
ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS	3
3.1. Governing Body; Composition	3
3.2. Number of Directors	4
3.3. Directors During Class "B" Control Period	4
3.4. Nomination and Election of Directors	4
3.5. Election and Term of Office	4
3.6. Removal of Directors and Vacancies	5
3.7. Organizational Meetings	5
3.8. Regular Meetings	5
3.9. Special Meetings	5
3.10. Notice	5
3.11. Waiver of Notice	6
3.12. Participation in Meetings	6
3.13. Quorum of Board of Directors	6
3.14. Compensation	7
3.15. Conduct of Meetings	7
3.16. Open Meetings	7

3.17.	Action Without a Formal Meeting	7
3.18.	Powers	7
3.19.	Duties	7
3.20.	Management	9
3.21.	Accounts and Reports	9
3.22.	Borrowing	10
3.23.	Right to Contract	10
3.24.	Enforcement	10
ARTICLE 4:	OFFICERS	11
4.1.	Officers	11
4.2.	Election and Term of Office	11
4.3.	Removal and Vacancies	11
4.4.	Powers and Duties	11
4.5.	Resignation	11
4.6.	Agreements, Contracts, Deeds, Leases, Checks, Etc	12
4.7.	Compensation	12
ARTICLE 5:	COMMITTEES	12
5.1.	General	12
5.2.	Covenants Committee	12
ARTICLE 6:	MISCELLANEOUS	12
6.1.	Fiscal Year	12
6.2.	Parliamentary Rules	12
6.3.	Conflicts	12
6.4.	Books and Records	13
6.5.	Notices	13
6.6.	Amendment	14

BY-LAWS
OF
BROOKFIELD CHASE HOMEOWNERS ASSOCIATION, INC.

ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1. Name. The name of the corporation is Brookfield Chase Homeowners Association, Inc. (the "Association").

1.2. Principal Office. The principal office of the Association shall be located in Fulton County, Georgia. The Association may have such other offices, either within or outside the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Brookfield Chase filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

2.1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Properties or as convenient as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board so as to occur during the first quarter of the Association's fiscal year on a date and at a time set by the Board. Subsequent regular meetings shall be held annually on a date and at a time set by the Board.

2.4. Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting within thirty (30) Days if so directed by resolution of the Board or upon a petition signed by Members representing at least 20% of the total Class "A" votes in the Association or upon written request of the Declarant.

2.5. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) Days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof, unless specific objection as to the lack of proper notice is given at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than twenty (20) Days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.5.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access.

2.9. List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the address of the Member and the number of votes each is

entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Georgia law.

2.10. Proxies. At all meetings of Members, each Member may vote in person (if a corporation, partnership, or limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Georgia law. Every proxy shall be in writing specifying the Homesite(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Homesite for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11. Quorum. The presence, in person or by proxy, of Members representing twenty percent (20%) of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association. If a quorum is present, business may be continued until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

2.12. Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Association may be taken without a meeting, without prior notice and without a vote, if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) Days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative

of the Declarant, the directors shall be eligible Members or residents; provided however, no Owner and resident representing the same Homesite may serve on the Board at the same time. No Owner or resident shall be eligible to serve as a director if any assessment for such Owner's or resident's Homesite is delinquent. A "resident" for the purposes of these By-Laws shall mean any natural person eighteen (18) years of age or older whose principal place of residence is a Homesite within the Properties. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as representatives of the Class "B" Member or the Declarant.

3.2. Number of Directors. The Board shall consist of three (3) to five (5) directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three (3) directors appointed by the Class "B" Member as provided in Section 3.3 and shall increase as provided in Section 3.5. After the termination of the Class "B" membership, the Board may, by resolution, increase or decrease the number of directors.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Class "B" Control Period.

3.4. Nomination and Election of Directors. Elected directors shall be nominated from the floor at a meeting of the Association and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Each Owner may cast all votes assigned to such Owner's Homesites for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5. Election and Term of Office.

(a) Not later than 90 days after the termination of the Class "B" Control Period, the Board shall be increased to five (5) directors, and the Association shall hold an election at which the Class "A" Members shall be entitled to elect all five (5) directors, with the three (3) directors receiving the largest number of Class "A" votes being elected for a term of two (2) years and the remaining two (2) directors being elected for a term of one (1) year.

Upon the termination of the Class "B" Control Period the Class "B" membership shall be converted to a Class "A" membership.

3.6. Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by Members holding two-thirds (2/3) of the votes entitled to be cast for the election of such director, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Class "A" Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) Days delinquent (or is the resident of a Homesite that is delinquent or is the representative of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected director or the adoption of a Board resolution increasing the number of directors, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members shall elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

3.7. Organizational Meetings. Within thirty (30) Days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

3.8. Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one (1) such meeting shall be held during each quarter.

3.9. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two (2) directors.

3.10. Notice. Notice of a regular meeting shall be communicated to directors not less than four (4) Days prior to the meeting. Notice of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered.

Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) electronic mail or e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, or e-mail shall be deemed communicated when delivered, telephoned, telecopied, e-mailed or given to the telegraph company.

3.11. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12. Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference, or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.13. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) Days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.14. Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members representing a Majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a Majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Board, excluding the interested director.

3.15. Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings. In the case of a tie vote on a motion or resolution before the Board, the motion or resolution is considered lost.

3.16. Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on a Member's behalf by a director. In such case, the president may limit the time any Member may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Members to discuss matters of a sensitive nature.

3.17. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

3.18. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or Georgia law do not direct to be done and exercised exclusively by the membership generally.

3.19. Duties. The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;
- (b) levying and collecting such assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) contracting for repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the costs of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Homesite, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;

(o) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required or permitted under Georgia law or the Governing Documents; and

(p) assisting in the resolution of disputes between Owners and others without litigation as set forth in the Declaration.

3.20. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(f) commencing at the end of the quarter in which the first Homesite is sold and closed, financial reports shall be prepared for the Association at least quarterly (such financial statements shall include an income statement reflecting all income and expense activity for the preceding period on a cash or accrual basis and may include such other reports as deemed necessary by the Board);

(g) an annual financial report shall be made available to all Members within one hundred twenty (120) Days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines; provided

however, upon written request of any holder, guarantor or insurer of any first Mortgage on a Homesite, the Association shall provide an audited financial statement; and

(h) monthly statements for each account maintained on behalf of the Association must be provided to the Association by the financial institution holding the account.

3.22. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of Members holding at least sixty-seven percent (67%) of the total votes allocated to Homesites prior to borrowing such money.

3.23. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, within and outside the Properties.

3.24. Enforcement.

(a) **Notice.** Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed pursuant to Article 5, within fifteen (15) Days of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) Days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) Day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) Day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator.

(b) **Hearing.** If a hearing is requested within the allotted fifteen (15) Day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder,

proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board may adopt a schedule of sanctions for violations of the Governing Documents.

(c) **Appeal.** If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within fifteen (15) Days after the hearing date.

ARTICLE 4: OFFICERS

4.1. **Officers.** The officers of the Association shall be a president, vice president, secretary and treasurer. The president and secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one (1) or more assistant secretaries and one (1) or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

4.2. **Election and Term of Office.** The Board shall elect the officers of the Association at the first meeting of the Board following each election of new directors. Such officers shall serve until their successors are elected.

4.3. **Removal and Vacancies.** The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4. **Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The secretary shall be responsible for preparing minutes of meetings of the Association and the Board and for authenticating records of the Association.

4.5. **Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect

on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

ARTICLE 5: COMMITTEES

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. Unless otherwise provided by the Board, committee members shall be eligible Members or residents; provided however, no Class "A" Member may have more than one(1) representative on a committee at any time. No committee appointed by the Board shall be empowered to take any affirmative action or to bind the Board or the Association without the consent of the Board.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to the Declaration, these By-Laws and, specifically, Section 5.1, the Board may appoint a covenants committee consisting of at least three (3) and no more than five (5) members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.25 of these By-Laws.

ARTICLE 6: MISCELLANEOUS

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia

law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) **Inspection by Members and Mortgagees.** The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Homesite, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Homesite: the Declaration, By-Laws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate during normal business hours.

(b) **Rules for Inspection.** The Board may establish 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 cost of reproducing copies of documents requested.

(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 a copy of relevant documents at the expense of the Association.

6.5. Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Homesite of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

6.6. Amendment.

(a) **By Declarant.** The Declarant may unilaterally amend these By-Laws for any purpose during the Class "B" Control Period. Thereafter, the Declarant may unilaterally amend these By-Laws if such amendment is necessary to enable the any governmental or lending institution to make, purchase, insure or guarantee Mortgage loans on the Homesites; provided however, any such amendment shall not adversely affect the title to any Homesite unless the Owner shall consent thereto in writing. In addition, during the Development Period, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) **By the Board.** The Board shall be authorized to amend these By-Laws without the consent of the Members (i) for the purpose of submitting the Properties to the Georgia Property Owners' Association Act, O.C.G.A. §44-3-220, et seq. (1994) and conforming these By-Laws to any mandatory provisions thereof, and (ii) to correct scrivener's errors and other mistakes of fact, provided that any amendments under this provision have no material adverse effect on the rights of the Members. During the Development Period, any such amendments shall require the consent of the Declarant.

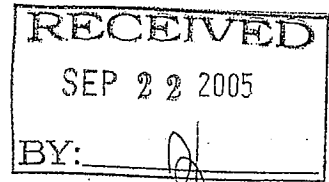
(c) **By Members.** Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and, during the Development Period, the written consent of the Declarant. In addition, the approval requirements set forth in Article 12 of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(d) **Validity and Effective Date.** Any amendment to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If a Member consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

AMMENDMENT(S)



[SPACE ABOVE RESERVED FOR RECORDING DATA]

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

STATE OF GEORGIA
COUNTY OF GWINNETT

CROSS REFERENCE: Deed Book 28374
Page 1

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR BROOKFIELD CHASE**

WHEREAS, Centex Homes, a Nevada General partnership, having Centex Real Estate Corp., a Nevada corporation, as its managing general partner ("Declarant") recorded a Declaration of Covenants, Conditions and Restrictions on August 13, 2002, in Deed Book 28374, Page 1, *et seq.*, Gwinnett County, Georgia, records (hereafter the "Declaration"); and

WHEREAS, Article 14, Section 14.2(b) of the Declaration provides that the Declaration may be amended by the Board of the Directors of the Brookfield Chase Homeowners Association ("Association"), without the consent of the Association members to submit the Properties, as defined in the Declaration, to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*, and to conform the Declaration to any mandatory provisions thereof; and

WHEREAS, Article 14, Section 14.2 (b) of the Declaration further provides that during the Development Period, as defined in the Declaration, any such amendment shall require the written consent of the Declarant; and

WHEREAS, this amendment does not alter, modify, change or rescind any right, title, interest or privilege granted or accorded to the holder of any deed to secure debt encumbering any Homesite at Brookfield Chase, as defined in the Declaration. However, if a court of competent jurisdiction determines that this Amendment does so without such mortgage holder's consent, then this Amendment shall not be binding on the mortgage holder so involved unless it consents to this Amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to the affected mortgage holder:

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA
PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, *ET SEQ.*

CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES
REGARDING ASSESSMENTS/CHARGES DUE ON LOTS.

WHEREAS, the Association's Board of Directors has approved this Amendment to the Declaration;
and
WHEREAS, the Declarant has consented to this Amendment to the Declaration; and

NOW, THEREFORE, the Declaration is amended as follows:

1.

Article 1, Section 1.18 of the Declaration is hereby amended by deleting it in its entirety and replacing it with the following:

1.18 "Annual Assessment" shall mean assessments levied on all Homesites subject to the assessment provisions of Article 8 herein.

2.

Article 1, Section 1.28 of the Declaration is hereby amended by adding the following language to the end thereof:

The Properties subjected to this Declaration constitutes a residential property owners' development, which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie, 1982), as such act may be amended from time to time.

3.

Article 1 of the Declaration is hereby amended by adding a new Section 1.33 thereto as follows:

1.33 "Act", means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

4.

Article 4., Section 4.3 of the Declaration is hereby amended by adding the following before the first sentence thereof:

The Properties shall be used only for those uses and purposes set out in this Declaration. Every Owner and occupant shall comply with this Declaration, the Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations. In addition to any rights the Association may have against an Owner's family, guests, tenants or occupants, as a result of such person's violation, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or occupants. The Actions and powers provided for herein are in addition to all other remedies available under the Act and Georgia law.

Article 8 of the Declaration is hereby amended as follows:

A. Article 8, Section 8.1 of the Declaration is amended by deleting it in its entirety and replacing it with the following:

8.1 Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Homesites, as may be more specifically authorized from time to time by the Board.

B. Article 8, Section 8.2 of the Declaration is amended by deleting it in its entirety and replacing it with the following:

8.2 I. Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Homesite, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual maintenance charges; (ii) special assessments; and (iii) specific special assessments, including but not limited to such other amounts that may be imposed in accordance with the terms of this Declaration and the Act.

All such assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorney's fees actually incurred, all in the maximum amount permitted under the Act, shall be a charge on the Homesite and shall be a continuing lien upon the Homesite against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Homesite at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Gwinnett County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the Homesite and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the annual assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Homesite, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any installment shall be considered delinquent on the fifteenth (15) day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself or herself from liability, or otherwise withhold payment of the monthly maintenance charge or other assessments, for any reason whatsoever, including, but not limited to, nonuse of the Common Property, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

II. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

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

(b) If the Board permits payment of the annual assessments in installments, and assessments, fines or other charges, or any part thereof, due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date due, then the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment within ten (10) days written notice.

(c) If assessments, fines or other charges, or any part thereof, remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law, including reasonable attorney's fees actually incurred, and suspend voting rights and rights of the Owner and any occupants, family members or guests of the Owner to use the Common Property (provided, however, the Board may not deny ingress or egress to or from the Homesite).

C. Article 8, Section 8.3 of the Declaration is amended by deleting it in its entirety and replacing it with the following:

8.3 Computation of Operating Budget and Assessment. Prior to the beginning of each fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Community during the coming year, and the Board shall establish the annual assessment or installments for the coming year. The Board shall cause the budget and notice of the assessment(s) to be delivered to each member at least thirty (30) days prior to the due date for such assessment, or the first installment thereof. The budget and the assessment shall become effective unless disapproved at a duly called Association annual meeting by a vote of a majority of the total Association membership; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. However, the Board may propose a new or adjusted 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 a special meeting is requested by the members, as provided in the Bylaws for special meetings, the new or adjusted budget and assessment shall take effect without a meeting of the members.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

D. Article 8 of the Declaration is amended by adding the following as Section 8.12 and 8.13:

8.12 Statement of Account. Any Owner, mortgagee, or a person having executed a contract for the purchase of a Homesite, or a lender considering a loan to be secured by a Homesite, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Homesite. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars or such higher amount as may be authorized under the Act, as a prerequisite to the assessments due on the Homesite as of the date specified therein.

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

6.

Article 14, Sections 14.1 and 14.2 of the Declaration are hereby deleted in their entirety and the following are substituted therefor:

14.1 Duration. The covenants and conditions of this Declaration shall run with and bind the Properties perpetually to the extent provided in the Act.

14.2 Amendment. This Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Members of the Association holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and filed in the Gwinnett County, Georgia land records.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the

Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

If legal action is not instituted to challenge the validity of this Declaration or any amendment hereto within one (1) year of the recording thereof in the Gwinnett County, Georgia land records, then such amendment or document shall be presumed to be validly adopted.

7.

Article 14 of the Declaration is amended by adding the following as Section 14.13 thereto:

14.13 Duties and Powers. The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, the Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association. However, if there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, the Bylaws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and the Bylaws, in that order, shall prevail. Each Owner of a Lot, by acceptance of a deed or other conveyance therefore, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

[SIGNATURES

ON

FOLLOWING

PAGE]

IN WITNESS WHEREOF, the undersigned officers of the Brookfield Chase Homeowners Association, Inc., hereby certify that the above Amendment to the Declaration was duly adopted by the required majority of the Association's Board of Directors, with all required notices duly given.

This 9th day of June, 2005.

Sworn to and subscribed before me this 9 of June, 2005.

[Signature]
Witness

Tina L. McElveen
Notary Public

[Notary Seal]

TINA L. McELVEEN
NOTARY PUBLIC, FULTON COUNTY, GEORGIA
MY COMMISSION EXPIRES MARCH 16, 2008

ASSOCIATION: BROOKFIELD CHASE HOMEOWNERS ASSOCIATION, INC.

By: [Signature]
President

Attest: [Signature]
Secretary

[CORPORATE SEAL]

IN WITNESS WHEREOF, Centex Homes, as Declarant, hereby consents to the above Amendment to the Declaration.

This 2 day of Sept, 2005.

Sworn to and subscribed before me this 2 of Sept, 2005.

[Signature]
Witness

Rebecca A. Donaldson
Notary Public

[Notary Seal]

REBECCA A. DONALDSON
NOTARY PUBLIC
EXPIRES
GEORGIA
SEPT. 30, 2008
FORSYTH COUNTY

DECLARANT: CENTEX HOMES, a General Partnership

By: [Signature]
Title

Attest: [Signature]
ASSISTANT Secretary

[CORPORATE SEAL]
CENTEX REAL ESTATE CORPORATION
SEAL
NEVADA

AMENDMENT TO THE BY-LAWS OF BROOKFIELD CHASE HOMEOWNERS
ASSOCIATION, INC.

WHEREAS, Centex Homes, a Nevada General partnership, having Centex Real Estate Corp., a Nevada corporation, as its managing general partner ("Declarant") recorded a Declaration of Covenants, Conditions and Restrictions on August 13, 2002, in Deed Book 28374, Page 1, *et seq.*, Gwinnett County, Georgia, records (hereafter the "Declaration"); and

WHEREAS, Article 6, Section 6.6 (b) of the By-Laws provides that the By-Laws may be amended by the Board of the Directors without the consent of the Members for the purpose of submitting the Properties to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.* and conforming the By-Laws to any mandatory provision ;and

WHEREAS, Article 6, Section 6.6 (b) of the By-Laws further provides that during the Development Period, any such written amendment shall require the written consent of the Declarant; and

WHEREAS, the Association's Board of Directors has approved this Amendment to the Declaration;
and

WHEREAS, the Declarant has consented to this Amendment to the By-Laws.

NOW, THEREFORE, the By-Laws are amended as follows:

1.

Article 2, Section 2.5 of the By-laws is amended by deleting it in its entirety and replacing it with the following:

Written notice stating the place, day and time of any meeting of the members shall be delivered to each member not less than 21 days before the date of each annual meeting and not less than seven days for before the date of each special meeting, by or at the direction of the President or the Secretary or the Officers or persons calling the meeting.

In the case of a special meeting or when others are required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the undersigned officers of the Brookfield Chase Homeowners Association, Inc., hereby certify that the above Amendment to the By-Laws was duly adopted by the required majority of the Association's Board of Directors, with all required notices duly given.

This 9th day of June, 2005.

Sworn to and subscribed before me this 9 of June, 2005.

[Signature]
Witness
Tina L. McElveen
Notary Public

ASSOCIATION: BROOKFIELD CHASE HOMEOWNERS ASSOCIATION, INC.

By: [Signature]
President
Attest: [Signature]
Secretary

[Notary Seal]

[CORPORATE SEAL]

TINA L. McELVEEN
NOTARY PUBLIC, FULTON COUNTY, GEORGIA
MY COMMISSION EXPIRES MARCH 16, 2008

IN WITNESS WHEREOF, Centex Homes, as Declarant, hereby consents to the above Amendment to the By-Laws.

This 2 day of Sept, 2005.

Sworn to and subscribed before me this 2 of Sept, 2005.

[Signature]
Witness

DECLARANT: CENTEX HOMES, a General Partnership

By: [Signature]
Title: _____
Attest: [Signature]
~~SECRETARY~~ Secretary

[Signature]
Notary Public

REBECCA A. DONALDSON
NOTARY PUBLIC
FORSYTH COUNTY, GEORGIA
EXPIRES SEPT. 30, 2008

ESTABLISHED CORPORATION
CENTEX REAL ESTATE CORPORATION
NEVADA
SEAL

416615v1 (9814)

INCORPORATION DOCUMENTS

Secretary of State
Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CONTROL NUMBER: 0238296
EFFECTIVE DATE: 07/26/2002
JURISDICTION : GEORGIA
REFERENCE : 0044
PRINT DATE : 07/30/2002
FORM NUMBER : 311

STEFANIE TOMESH
CENTEX HOMES
1750 FOUNDERS PARKWAY, SUITE 1260
ALPHARETTA, GA 30004

CERTIFICATE OF INCORPORATION

I, Cathy Cox, the Secretary of State and the Corporations Commissioner of the State of Georgia, do hereby certify under the seal of my office that

BROOKFIELD CHASE HOMEOWNERS ASSOCIATION, INC.
A DOMESTIC NONPROFIT CORPORATION

has been duly incorporated under the laws of the State of Georgia on the effective date stated above by the filing of articles of incorporation in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on the date set forth above.




A handwritten signature in cursive script, appearing to read "Cathy Cox".

Cathy Cox
Secretary of State

ARTICLES OF INCORPORATION

OF

BROOKFIELD CHASE HOMEOWNERS ASSOCIATION, 
(A Georgia Nonprofit Corporation)

Article 1. Name. The name of the corporation is Brookfield Chase Homeowners Association, Inc. ("Association").

Article 2. Nonprofit Corporation. The Association is organized pursuant to the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-1, et seq.

Article 3. Principal Office. The initial principal office of the Association is located in Fulton County, Georgia at the following address:

1750 Founders Parkway
Suite 126-A
Alpharetta, GA 30004

Article 4. Duration. The Association shall have perpetual duration.

Article 5. Definitions. All capitalized terms which are not defined herein shall have the same meaning as set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Brookfield Chase recorded, or to be recorded, in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

Article 6. Purposes. The Association is formed for the purposes of:

(a) being and constituting the Association to which the Declaration refers, performing all obligations and duties of the Association, and exercising all rights and powers of the Association, as specified in the Declaration and the By-Laws, and as provided by law; and

(b) providing an entity for the furtherance of the interests of the Owners.

Article 7. Powers. The Association shall have the following powers, which, unless otherwise indicated by the Governing Documents, may be exercised by the Board:

(a) all of the common law and statutory powers conferred upon nonprofit corporations under Georgia law; and

(b) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, or the Declaration, including, without limitation, the power:

(i) to establish, collect, and enforce payment, by any lawful means, of assessments and other charges to be levied against the Homesites;

(ii) to manage, control, operate, maintain, repair, and improve the Properties and any other property for which the Association by rule, regulation, covenant, or contract has a right or duty to provide such services;

(iii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all Owners;

(v) to buy or otherwise acquire, sell, dedicate for public use, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, own, hold, use, operate, grant easements, and otherwise deal in and with real and personal property of all kinds and any right or interest therein for any purpose of the Association, subject to such limitations as may be set forth in the Declaration or By-Laws;

(vi) to borrow money for any purpose, subject to such limitations as may be set forth in the Declaration or By-Laws;

(vii) to enter into, make, perform, and enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(viii) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals; and

(ix) to provide any and all services to the Properties as may be necessary or proper.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other rights and powers which may now or hereafter be permitted by law. The powers specified in each of the paragraphs of this Article are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph of this Article.

(c) The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members and shall make no distributions of income to its Members, directors, or officers.

Article 8. Members.

(a) The Association shall be a membership corporation without certificates or shares of stock.

The Association shall have two (2) classes of membership, Class "A" and Class "B". The Class "A" Members shall be all Owners, except the Class "B" Member, if any. The Class "B" Member shall be the Declarant. The Class "B" Member's rights are specified in the Declaration and By-Laws. The Declarant may establish additional classes of membership as set forth in the Declaration. The manner of exercising voting rights shall be as set forth in the Declaration and in the By-Laws of the Association.

(b) Change of membership in the Association shall be established by recording in the Public Records a deed or other instrument establishing record title to real property subject to the Declaration. Upon such recordation, the owner designated by such instrument shall become a Member of the Association and the membership of the prior owner shall be terminated.

(c) The share of a Member in the privileges, rights and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance of its Homesite.

Article 9. Dissolution. The Association may be dissolved only upon a resolution duly adopted by the Board of Directors; and

- (i) the approval of Members holding at least 100% of the Class "A" votes in the Association; and
- (ii) approval of all governmental authorities having jurisdiction or interests in the Properties; and
- (iii) approval of all applicable lending institutions; and
- (iv) during the Development Period, the written consent of the Declarant.

In the event of dissolution, liquidation or winding up of the Association, subject to the Declaration, the Association's assets remaining after payment, or provisions of payment, of all known debts and liabilities of the Association shall be divided among and distributed to the Members thereof in accordance with their respective rights therein or shall be dedicated to a public body or conveyed to a nonprofit organization with similar purposes.

Article 10. Merger and Consolidation. The Association may merge or consolidate only upon a resolution duly adopted by the Board of Directors and the affirmative vote of Members holding at least two-thirds (2/3) of the Class "A" votes in the Association and, during the Development Period, the written consent of the Declarant.

Article 11. Directors and Officers.

(a) The business and affairs of the Association shall be conducted, managed, and controlled by a Board of Directors. The initial Board shall consist of three directors. The number of directors may be changed in accordance with the By-Laws.

(b) The names and mailing addresses of the initial directors, who shall hold office until their successors are elected and qualified, or until removed, are as follows:

Cassie Stinson Christina Strickland Dwayne Hill

whose addresses are: 1750 Founders Parkway, Suite 126-A, Alpharetta, GA 30004

Each of the foregoing persons has consented to be a director.

(c) The method of election, removal, and filling of vacancies on the Board of Directors and the term of office of directors and officers shall be as set forth in the By-Laws.

(d) The Board may do or cause to be done all acts and things which the Declaration, the By-Laws, these Articles or Georgia law do not direct to be done and exercised exclusively by the membership generally.

(e) The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

Article 12. By-Laws. The By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended, or rescinded in the manner provided in the By-Laws. The quorum requirements for meetings of Members, and directors shall be set forth in the Declaration and By-Laws.


Article 13. Liability of Directors, Officers and Committee Members. To the fullest extent that Georgia law, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, officers, ARB members and committee members, no director or officer of the Association or ARB member or committee member shall be personally liable to the Association or its Members for monetary damages for breach of duty of care or other duty as a director, officer or ARB or committee member. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director or officer of the Association or ARB member or committee member for or with respect to any acts or omissions of such director, officer, or ARB member or committee member occurring prior to such amendment or repeal. The Association shall indemnify any director, former director, officer, former officer, ARB member or former ARB member, committee member or former committee member against liability to the fullest extent permitted under Georgia law.

Article 14. Amendments. These Articles may be amended by a resolution duly adopted by the Board of Directors and the approval of Members holding at least two-thirds (2/3) of the Class "A" votes in the Association and, during the Development Period, the written consent of the Declarant; provided, no amendment may be in conflict with the Declaration. However, no Members shall be entitled to vote on any amendment to these Articles which is for the sole purpose of complying with the requirements of any governmental or quasi governmental entity or institutional lender authorized to fund, insure or guarantee Mortgages on individual Homesites, as such requirements may exist from time to time, or any amendment to these Articles of Incorporation for the sole purpose of submitting the Properties to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* (1994) and conforming these Articles to any mandatory provisions thereof which amendments may be adopted by the Board of Directors, with the written consent of the Declarant during the Development Period. Further, no amendment shall be effective to impair or dilute any rights of Members that are governed by the Declaration.

Article 15. Incorporator. The name and address of the incorporator of the Association are as follows:
Lon Grayston Bryant
Centex Homes
1750 Founders Parkway, Suite 126-D
Alpharetta, GA 30004

Article 16. Registered Agent and Address. The Association hereby appoints Lon Grayston Bryant, whose address in Fulton County, Georgia is 1750 Founders Parkway, Suite 126-D, Alpharetta, GA 30004, as its lawful statutory agent upon whom all notices and processes, including service of summons, may be served, and which when served, shall be lawful, personal service upon this corporation. The Board may, at any time, appoint another agent for such purpose and the filling of such appointment shall revoke this or any other previous appointment of such agent.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation, this 05th day of JULY, 2002.



Lon Grayston Bryant, Incorporator

1750 Founders Parkway, Suite 126-D
Alpharetta, GA 30004

2002 JUL 26 P 12: 01

SECRETARY OF STATE

