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Prepared by and return to:
Amy H. Bray
Andersen, Tate, Mahaffey & McGarity, P.C.
P.O. Box 2000
Lawrenceville, Georgia 30046

DECLARATION OF COVENANTS, RESTRICTIONS,

AND EASEMENTS

FOR

HAMBRICK CREEK SUBDIVISION

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DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR HAMBRICK CREEK SUBDIVISION

THIS DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS for HAMBRICK CREEK SUBDIVISION ("Declaration") is made this ___ day of _____, 2003 by Herman & Jones, Inc., a Georgia corporation ("Declarant").

BACKGROUND STATEMENT

Declarant is the owner of certain real property in Henry County, Georgia, which is more particularly described on Exhibit "A" attached hereto and made a part hereof ("Property").

Declarant intends to develop on lands, including the real property described above, a development to be known as HAMBRICK CREEK. Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within HAMBRICK CREEK, the development made subject to this Declaration, and any other real property which are subsequently added to this Declaration pursuant to the provisions of Article X, by the recording of this Declaration and amendments thereto. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Development and the administration between the Association (as hereafter defined) established pursuant to this Declaration, and any recreational areas which may become a part of the Development. Declarant also desires to establish a method for the administration, maintenance, preservation, use and enjoyment of the property that is now or hereafter subjected to this Declaration and certain other properties described in this Declaration.

In furtherance of such plan, Declarant has caused or intends to cause the Association to be formed as a Georgia non-profit corporation to own, operate, and maintain Common Property, as defined below, and to administer and enforce the provisions of this Declaration.

The Declarant hereby declares that all of the real property described on Exhibit "A" shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Development. The covenants, restrictions, and easements set forth herein shall run with the Development, and shall be binding on all parties having or acquiring any right, title, or interest in the Development or any part

thereof, and shall, subject to the limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors, and assigns and to the benefit of the Association.

This document does not and is not intended to create a condominium within the meaning of the Georgia Condominium Act, O.C.G.A. Section 44-3-70 and the Association is not subject to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220.

ARTICLE I
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

"Association": Hambrick Creek Community Association, Inc. (a non-profit, nonstock, membership corporation organized or to be organized under the Georgia Nonprofit Corporation Code), its successors and assigns.

"Architectural Control Committee": The committee described in Section 5.01.

"Board": The Board of Directors of the Association.

"By-Laws": The By-Laws of the Association attached as Exhibit "B" hereto.

"Class "B" Control Period": The period of time during which the Class "B" Member appoints a majority of the members of the Board of Directors as provided in Section 4.2 of the By-Laws.

"Commencement Date": The date on which the first Lot is sold to a person other than Declarant or the builder of a Residence on such Lot.

"Common Property": All property, real or personal (together with any and all improvements now or hereafter located thereon) in which the Association owns, leases, or otherwise holds possessory or use rights for the common use and enjoyment of the Owners.

"Declarant": Herman & Jones, Inc., a Georgia corporation, or its successors-in-title and assigns, provided any such successors-in-title or assigns shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "A" and, except in the case of foreclosure, who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant. Upon such designation of successor Declarant, all rights and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the

Development, there shall be only one Person entitled to exercise the rights and powers of the "Declarant" hereunder at any one time.

"Development": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article X.

"Development-Wide Standard": The standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined by the board and by committees required or permitted to be established pursuant to the Declaration and By-Laws. Such determination, however, must be consistent with the Development-Wide Standard originally established by the Declarant.

"Governing Documents": A collective term referring to this Declaration and any applicable Supplementary Declaration, the By-Laws, the Articles, any architectural or design standards as provided herein, and the Use Restrictions and Rules, as they may be amended.

"Living Space": Enclosed and covered areas within a Residence, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics, and basements.

"Lot": A portion of the Development, whether improved or unimproved, which is intended for development, use, and occupancy as a residence for a single family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on a recorded subdivision plat with respect to any portion of the Development, together with the structures, if any, constructed thereon, as well as vacant land intended for further subdivision, but shall not include Common Property or property dedicated to the public.

"Member": Any member of the Association.

"Membership": The collective total of all Members of the Association.

"Occupant": Any person occupying all or any portion of a Residence located within the Development for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

"Owner": The record owner (including Declarant), whether one or more persons or entities, of fee simple title to any Lot; provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

"Parcel": Separately designated residential areas comprised of various types of housing initially or by annexation made subject to this Declaration. If separate Parcel status is desired, the Declarant shall designate in an amendment to this Declaration subjecting the property to the terms and conditions of this Declaration that such property shall constitute a separate parcel or parcels. In the absence of specific designation of separate Parcel status, all property made subject to this Declaration shall be considered a part of the same parcel. The Board may also grant Parcel status to any area if so requested in writing by the Owners holding at least seventy-five percent (75%) of the total vote entitled to vote thereon in such area.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Residence": A structure situated upon a Lot intended for independent use and occupancy as a residence for a single family. A structure and the land owned as a part thereof (the Lot) shall not become a Residence until a certificate of occupancy shall have been issued by the appropriate governmental authorities as a prerequisite to the occupancy of such Residence and until the Lot and structure located thereon shall have been conveyed to a third party other than the builder thereof. The Owner of a Residence shall notify the Association or its designee immediately upon issuance of a Certificate of Occupancy for the Residence.

"Restrictions": All covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

"Structure":

(a) Any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including, by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, dock, fence, mailbox, deck, courtyard, tennis court, playhouse, awning, exterior lighting, guest or servants' quarters, curbing, paving wall, tree, shrub (and all other forms of landscaping and hardscaping), swingset, basketball goal, landscape statue, fountain, sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(b) Any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) Any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) above applies to such change.

ARTICLE II
COMMON PROPERTY

2.01 Conveyance of Common Property.

(a) The Declarant may from time to time convey to the Association or grant easements to the Association, at no expense to the Association and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners of Lots and Residences (such real and personal property is hereinafter collectively referred to as "Common Property") and, to the extent set forth in this Declaration, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances of Common Property. Any such conveyance of Common Property by Declarant to the Association will be by limited warranty deed, subject to all of the covenants and restrictions set forth in this Declaration, as amended, ad valorem taxes for the current year, all easements to which the Common Property is subject, general utility easements serving or crossing the Common Property, and all easements, licenses and other rights granted in and to the Common Property pursuant to the provisions of this Declaration, as amended.

(b) It is contemplated by the Declarant that the Declarant may convey to the Association Common Property for scenic and natural area preservation and for general recreational use. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.

(c) In addition to the property described in subsection (b) of this Section 2.01, the Declarant may convey to the Association in accordance with this Section 2.01 such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Development owned by the Declarant and designated as Common Property 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.

(e) Detention ponds, lakes, and dams may, without limitation, be included in the property that may be conveyed by Declarant and which shall be accepted by the Association. Declarant shall not be required to make any improvements whatsoever to the property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any detention pond or lake that may be conveyed.

(f) The Declarant shall have the right to dedicate or transfer fee simple title to all or any portion of the Development then owned by Declarant, including any portion thereof intended to be Common Property to Henry County, Georgia, or any other public agency or authority, public service district, public or private utility, or other person, provided that Declarant then owns any Lot primarily for the purpose of sale or has the unexpired option to add any additional property to the Development.

2.02 Right of Enjoyment.

Every Owner of a Residence shall have a right and easement to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not Owners to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to suspension by the Association as provided in Sections 2.03(f) and 3.05.

2.03 Rights of the Association.

The rights and privileges conferred in Section 2.02 hereof shall be subject to the right, and where applicable, the obligation, of the Association acting through the Board to:

(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest any or all of the Association's property including Common Property and revenues from assessments, user fees and other sources; and provided, however, that, during the period when the Declarant has the right to appoint members of the Board, the Association shall not deed, grant or convey to anyone any mortgage, deed to secure debt or other security interest on or in Common Property constituting real estate without approval by Declarant and a two-thirds (2/3) vote of the Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the By-Laws of the Association;

(c) grant easements or rights of way over Common Property to any municipality or other governmental body, agency, or authority, to any quasi-public agency or to any utility company or cable television system;

(d) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency, or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall, if such dedication or transfer is approved by a two-thirds (2/3) vote of the Members who are present in person or by proxy and voting at a meeting of the Members duly held in accordance with the By-Laws of the Association;

(e) charge reasonable fees in connection with the admission to and use of facilities or services by Members and non-members; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;

(f) suspend, pursuant to Section 3.05, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;

(g) to sell, lease, or otherwise convey all or any part of its properties and interest therein; and

(h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof.

2.04 Conveyance of Common Property by Declarant to Association.

The Declarant may transfer or convey to the Association any personal property and any improved or unimproved property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all its Members.

2.05 Delegation of Use.

Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the By-Laws, his right to use and enjoy the Common Property.

2.06 Maintenance.

The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. In addition, the Association shall maintain grass and other landscaping located along or in dedicated rights of way which were installed and maintained by Declarant, to the extent

permitted by the applicable governmental authority. The foregoing maintenance shall be performed consistent with the Development-Wide Standard. Despite anything contained in this Declaration to the contrary, however, the Association shall have no obligation to maintain and keep in good repair any landscaping, grass, or any other form or any other Structure which is placed by an Owner or Occupant within that portion of such Owner's or Occupant's Lot which is either included within or abuts any Common Property or any dedicated rights-of-way; but nothing contained in this sentence shall be deemed to give any Owner or Occupant the right to place any landscaping, grass or other Structure within such Common Property or dedicated rights-of-way contrary to any other provisions of the Declaration.

The Association shall also have the right, but not the obligation to maintain and provide services for other property not owned by the Association, whether located within or without the boundaries of the Development, and to enter into easements and covenants to share cost agreements regarding such property where the Board has determined that this would benefit Owners.

2.07 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 real property which may or may not be subject to this Declaration.

2.08 Condemnation.

If any part of the Common Property shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE III
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.01 Purposes, Powers, and Duties of the Association.

The Association shall be formed as a non-profit corporation for the sole purpose of performing certain functions for the common good and general welfare of the people of the Development. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Development as the Board or the

membership may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and all applicable laws.

3.02 Membership in the Association.

Every Owner shall automatically be a Member of the Association and such membership shall terminate only as provided in this Declaration. There shall only be one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulations and the restrictions on voting set forth in Section 3.03 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. For purposes of voting, there shall be two (2) classes of Members as set forth in Section 3.03.

3.03 Voting Rights.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Each Owner of a Lot, with the exception of Declarant until such time as the Class "B" membership terminates, shall be a Class A Member and shall be entitled to one Class "A" vote per Lot. Where such Owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the secretary of the Association.

(b) Class "B". The Declarant shall be the sole Class "B" Member. The Class "B" Member may appoint the members of the Board during the Class "B" Control Period, through the procedures prescribed in Section 4.2 of the By-Laws, and it may exercise additional rights as are specified elsewhere in the Governing Documents. The Class "B" membership shall terminate at the earlier of: (a) when 100% of the property described on Exhibit "A," and any property described on Exhibit "B" that is anticipated to be developed and conveyed to Owners for residential occupancy; (b) 20 years after the date of the recording of this Declaration; or (c) when Declarant voluntarily terminates such membership earlier by recording a written notice of termination in the real property records of the Clerk of the Superior Court of Henry County, Georgia.

If Declarant voluntarily terminates the Class "B" membership prior to the sale of all of the property described on Exhibits "A" and "B," Declarant shall become a Class "A" Member

entitled to one Class "A" vote for each Lot which it owns. If Declarant voluntarily terminates the Class "B" membership, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 9.02.

3.04 Board of Directors.

The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in the By-Laws of the Association.

3.05 Suspension of Membership.

The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02 by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Section 5.11, 6.14 or 8.02 hereof;

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property. Such suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.05, the suspension may be for a period not to exceed 60 days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

3.06 Termination of Membership.

Membership shall cease only when a person ceases to be an Owner.

3.07 Voting Procedures.

The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Georgia Nonprofit Corporation Code, the Articles of Incorporation of the Association, and the By-Laws of the Association, as each shall from time to time be in force and effect.

3.08 Association's Responsibility.

Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Property, which responsibility shall include the maintenance, repair, and replacement of the Common Property, including but not limited to the maintenance, repair, and replacement of (i) all roads, walks, trails, parking lots, landscaped areas, recreational areas, and other improvements made by Declarant or the Association situated within the Common Property; (ii) such security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of the Common Property and which are not maintained by a public authority, public service district, public or private utility, or other person; (iii) all lawns, trees, shrubs, hedges, grass, and other landscaping and all lakes and ponds situated within or upon the Common Property; and (iv) all retention areas and facilities constructed by Declarant wherever located.

The Association shall not be liable for injury or damage to any person or property (A) caused by the elements or by any Owner or any other person, (B) resulting from any rain or other surface water which may leak or flow from any portion of the Common Property, or (C) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of the Common Property or any other portion of the Development.

No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner. This Section is subject to the express provisions in Section 2.06, relieving the Association from maintaining certain landscaping, grass, or other Structures which are installed by Owners or Occupants in the instances provided in such Section 2.06.

3.09 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 the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

3.10 Indemnification.

The Association shall indemnify every officer, director, and committee member, including members of the Architectural Control Committee, against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law.

The officers, directors, 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 and directors 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 or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action.

The right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as an Association expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3.11 Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to make the Development safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Development, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security measures undertaken. No representation or warranty is made that any security system or measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will, in all cases prevent loss or provide 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 Residence that the Association, the Board and committees, and Declarant are not insurers and that each Person using the Development assumes all risks of personal injury and loss or damage to property, including Residences and the contents of Residences, resulting from acts of third parties.

ARTICLE IV
ASSESSMENTS

4.01 Covenant for Assessments and Creation of Lien and Personal Obligation.

Each Owner of a Lot, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to pay to the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(b) to pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(c) that there is hereby created a continuing charge and lien upon all Lots owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon as provided in Section 4.09 hereof and costs of collection including reasonable attorneys' fees;

(d) that such continuing charge and lien on such Lot binds such Lot in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lot (together with any and all Structures which may from time to time be placed or located thereon) and (2) to finance the construction or repair or alteration of Structures. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Georgia law.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot 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 Lot shall be charged, in addition to its usual assessment, its pro rate share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the liens securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Association expenses collectible from Owners of all Lots subject to assessment under Section 4.03, including such acquirer, its successors and assigns.

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot from liability for any assessment thereafter assessed;

(f) that all annual, special, and specific assessments (together with interest thereon as provided in Section 4.09 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot as provided in Section 4.01(c) of this Declaration) a personal obligation which will survive any sale or transfer of the Lot owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to Owner's successor in title unless expressly assumed by such successor.

4.02 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 assessments 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.

4.03 Annual Assessment.

(a) Beginning on the Commencement Date and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Lot shall be subject to an annual assessment as established by the Board. In the event that the Commencement Date falls on a day other than January 1, the annual assessment for such year shall be prorated so that each Owner pays an annual assessment proportional to the number of days remaining in the calendar year. The words "Assessment Year" as used herein shall mean the calendar year with the first Assessment Year commencing on January 1 of the year immediately following the Commencement Date. For so long as Declarant has the right to appoint and remove directors and officers of the Association, the annual assessment shall not be reduced below the amount initially established by the Board without the express written consent of Declarant.

(b) Commencing with the first Assessment Year and continuing thereafter, the annual assessment may be increased at any time and from time to time during each Assessment Year at

not more than 33.33% above the annual assessment for the previous Assessment Year without a vote of the Membership.

(c) Commencing with the first Assessment Year and continuing thereafter, the annual assessment for each Assessment Year may at any time and from time to time be increased more than 33.33% above the maximum annual assessment for the previous Assessment Year if such increase is approved by a two-thirds vote of the Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

4.04 Special Assessments.

In addition to the annual assessments authorized by this Article IV, the Association may levy, in any Assessment Year and with such frequency as the Association shall deem necessary, special assessments for the purpose of paying, in whole or in part, any unanticipated operating expenses, as well as the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common Property. Such special assessments may be levied by the Board in any Assessment Year without the approval of the Members, when special assessments in the aggregate do not exceed an amount equal to the annual assessment then in effect. Special assessments exceeding said amount shall require the approval of two-thirds of the Members of the Association who are present in person or by proxy at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

4.05 Assessment Procedure.

(a) The Board shall establish the annual assessment for each Assessment Year at an amount not in excess of the maximum annual assessment as determined by the provisions of this Article IV, and shall also establish the date during the Assessment Year on which the annual assessment shall be due and payable (the "Due Date"). The Board shall also establish an annual budget which shall list the estimated operating expenses and shall contain an amount to be set aside each year into a reserve allowance to be used for future repair and replacement of the Common Property; provided, however, in no event shall the Board be required to provide for a reserve sufficient to cover all such future repair and replacement of the Common Property, it being intended that portion of such costs will be covered by Special Assessment. The Board shall cause the Association to send to each Owner at least 30 days in advance of the Due Date written notice setting forth the amount of the annual assessment and the Due Date. The annual assessment shall become due on the 30th day following such written notice or the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual assessment in installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special assessments for capital improvements which may be levied in accordance with the provisions of this Article IV.

(b) All Members of the Association shall be given written notice by the Board not less than 30 nor more than 60 days in advance of any meeting of the Members of the Association at which the Board shall propose taking action pursuant to Section 4.03(c) and Section 4.04 of this Article IV. Such written notice shall specify under which Section or Sections the Board will propose action. At such meeting, the presence of Members or proxies entitled to cast 25% of the total votes outstanding shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement and the required quorum at such second meeting shall be one-half. No such second meeting shall be held more than 60 days following the first meeting. If the required quorum is not present at the second meeting, the Board may take such action without approval of the Members. Notwithstanding the required quorum requirements stated herein, a minimum vote of 51% of all of the votes of the Association shall be required to disapprove the Association's annual budget.

4.06 Uniform Rate of Assessment.

Both annual and special assessments must be fixed at a uniform rate for all Lots.

4.07 Contribution by Declarant.

For so long as Declarant has the authority to appoint and remove directors and officers of the Association, Declarant shall not be liable for the payment of any assessments. Provided, however, during said period Declarant shall advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for the reserve allowance), and the sum of annual, special and specific assessments collected by the Association in any Assessment Year, and such advances shall be evidenced by promissory notes from the Association to Declarant bearing interest at the annual rate of 12% and having payment schedules and maturity dates as agreed between Declarant and the Association, but failing such agreement, being demand notes.

4.08 Effect of Nonpayment of Assessments.

Any Assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the lower of the highest legal rate of interest which can be charged or the rate of 18% per annum or at such rate as the Board may from time to time establish, provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. In the event of default in the payment of any one or more installments of an assessment, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any assessment prior to the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest

and costs of collection including reasonable attorneys' fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot, enforceable in accordance with the provisions of this Declaration.

4.09 Certificate of Payment.

Upon written demand by an Owner, the Association shall issue, within a reasonable period of time, and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

4.10 Approval by Declarant.

Notwithstanding anything to the contrary contained herein, no special assessment and/or specific assessment shall be made without the Approval of Declarant for so long as Declarant has the right to appoint officers and directors of the Association.

4.11 Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular residence as follows:

(a) to cover the costs including overhead and administrative costs, of providing benefits, items, or services to the Lot or its occupants upon request of the Owner pursuant to a menu of special services which the Board may authorize from time to time to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, pest control, cable television or utility service, and similar services). Specific 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 Lot into compliance with the terms of this Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agent, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot's Owner prior written notice and an opportunity for a hearing, in accordance with Section 7.10 of the By-Laws before levying any specific assessment under this subsection.

ARTICLE V
ARCHITECTURAL CONTROL

5.01 Architectural Control Committee - Creation and Composition.

(a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than one or more than five individuals; provided, however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, but not the obligation, to appoint all members of the ACC until the Class "B" membership terminates pursuant to Section 3.03. Thereafter, the Association shall appoint the members of the ACC. All costs of operating the ACC may, at the discretion of Declarant, be borne by the Association.

(b) Each Association-appointed member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal, or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall subject to the provisions of 5.01(a) be filled by the Declarant (or Board if at the time the Board has the right to appoint members of the ACC) at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant (or Board if at the time the Board has the right to appoint members of the ACC).

5.02 Purpose, Powers, and Duties of the ACC.

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

5.03 Officers, Subcommittees, and Compensation.

The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be

reimbursed by the Association for traveling expenses and other reasonable out-of-pocket costs incurred in the performance of their duties as members of the ACC.

5.04 Operations of the ACC.

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

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5.05 hereof and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations, or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

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

5.05 Design Standards.

(a) The ACC shall from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purposes of:

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

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

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

(iv) assuring the conformity and harmony of external design and general quality of the Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to members and prospective members of the Association and to all applicants seeking the ACC's approval.

5.06 Submission of Plans and Specifications.

No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards, including, without being limited to:

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

(b) a foundation plan;

(c) a floor plan;

(d) exterior elevations of all proposed Structure and alterations to existing Structure, as such Structures will appear after all back-filling and landscaping are completed;

(e) specifications of materials, color scheme, lighting scheme, and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and

(f) plans for landscaping and grading.

5.07 Approval of Plans and Specifications.

Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, two copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

5.08 Disapproval of Plans and Specifications.

The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following:

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

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

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards for the Development as set forth in the Design Standards or the Development-Wide Standard, or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding Structures. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.09 Obligation to Act.

The ACC shall take action on any plans and specifications submitted as herein provided within 30 days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the Applicant. Failure by ACC to take action within 30 days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

5.10 Inspection Rights.

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

5.11 Violations.

If any Structure shall be erected, placed, maintained, or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance, or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association, and the Board shall provide written notice to the Owner by certified mail, return receipt requested, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within 30 days after the mailing of the aforesaid notice of violation, then the Association shall have the right of abatement as provided in Section 8.02 hereof.

5.12 Certificate of Compliance.

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

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

The issuance of the Certificate shall in no way be construed to certify to any party that the Structures have been built in accordance with any applicable rule or regulation.

5.13 Fees.

The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and of inspections performed pursuant to Section 5.10. The fee shall be established from time to time by the ACC and published in the Design Standards.

5.14 Nondiscrimination by ACC.

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

5.15 Disclaimer as to ACC Approval.

Plans and specifications are not reviewed for engineering or structural design or quality of materials or compliance with any local, state, or federal law including local building codes and zoning ordinances, and by approving such plans and specifications neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any Structure constructed from such plans and specifications. Neither Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans and specifications. Every person who submits plans and specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

5.16 Approval of Architect and Builder.

No improvements of any nature whatsoever shall be commenced, constructed, altered, added to or maintained upon any part of the Development (except for Residences and other improvements which are constructed by Declarant and for improvements which pursuant to this Article V do not require the consent of the ACC) unless and until the ACC has approved in writing the proposed architect (if any) and builder of such improvements.

ARTICLE VI
GENERAL COVENANTS AND RESTRICTIONS

6.01 Application.

The covenants and restrictions contained in this Article VI shall pertain and apply to all Lots and to all Structures erected or placed thereon.

6.02 Dwelling Size; Garage.

No dwelling shall be permitted on any Lot with less than 1,800 square feet of Living Space. Each dwelling shall have at least a two car garage.

6.03 Resubdivision of Property.

No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise without the prior written approval of the ACC of plans and specifications for such split, division, or subdivision. Notwithstanding the foregoing, nothing herein shall prevent Declarant or the Owners of any Lots from combining two or more Lots into one Lot for construction of a single Residence thereon; provided, however, that such combined Lot may not be subdivided thereafter; and provided further, that the Owner of the Residence on such Lot shall be responsible for annual and special assessments based upon the number of Lots combined into one Lot.

6.04 Erosion Control.

No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 6.05. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the ACC.

6.05 Landscaping.

No construction or alteration of any Structure shall take place without the prior written approval by the ACC of plans and specifications for the landscaping to accompany such construction or alteration. Guidelines for the landscaping to accompany the construction or alteration of any Structure may be included in the Development Guidelines of the ACC.

6.06 Trees.

No tree having a diameter of 10 inches or more (measured from a point two feet above ground level) shall be removed from any Lot unless such removal is in conformity with approved landscaping plans and specifications submitted pursuant to the provisions of Section 6.05 hereof or unless such removal is required due to disease. Guidelines relating to the preservation of trees or other natural resources and wildlife upon the Development may be included in the Design Standards of the ACC.

6.07 Temporary Buildings.

No temporary building, trailer, garage, or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefore approved by the ACC.

6.08 Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the ACC's prior written approval of plans and specifications therefor, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

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

(ii) not more than one "For Sale" sign, such sign having a maximum face area of four square feet; provided that such sign may only be displayed in the front yard of a Lot; and, provided, further, that if, at the time of any desired use of such sign, the Association is making "For Sale" signs available for the use Owners, the signs made available by the Association must be used; and

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC; except that Declarant during any period in which Declarant retains the right to appoint and remove any directors and officers of the Association shall have the sole right to erect and locate directional signs without the consent or approval of either the ACC or the Association.

(b) All "for rent" signs are prohibited in the Development.

(c) In no event during approved construction of any Structure shall more than one job identification sign be approved by the ACC, and such job identification sign shall be in conformity with the standards from time to time set by the ACC for such signage.

(d) Notwithstanding the foregoing, the restrictions of this Section 6.08 shall not apply to Declarant.

6.09 Setbacks.

In approving plans and specifications for any proposed Structure, the ACC may establish setback requirements for the location of such Structure. Guidelines for setbacks may be included in the Design Standards of the ACC. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks, the setbacks shown on the subdivision plat for each phase in the Development recorded in the real property records of Henry County, Georgia and consistent with all applicable governmental regulations and ordinances governing setbacks.

6.10 Fences.

No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ACC of plans and specifications for such fences and walls as well as the installer of the fence and/or wall.

6.11 Roads and Driveways.

No road or driveway shall be constructed or altered on any Lot without the prior written approval of the ACC of plans and specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standards of the ACC.

6.12 Antennae.

Satellite dishes and antennas shall not be installed or maintained on any Lot unless such satellite dish or antennae complies with the following:

(i) one antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter or diagonal measurement; or

(ii) one antenna designed to receive video programming services via multi-point distribution services, instructional television fixed services, and local multi-point distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) one antenna that is designed to receive television broadcast signals (collectively, "Permitted Antennas") shall be permitted on a Lot.

Any such Permitted Antennas shall be screened from view, and located in the rear yard of the residence; however, the ACC may also create additional reasonable requirements as to location and screening, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property The ACC may also issue variances from this provision, in its sole discretion, in order to address specific Lots. In no case shall any antenna be permitted on the Common Areas unless installed and maintained by the Association or the Declarant. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other communicator system for the benefit of all or a portion of the Development, should any master system or systems be utilized by the Association and require such exterior apparatus.

6.13 Clotheslines, Solar Equipment, Garbage Cans, Etc.

All clotheslines, equipment, garbage cans, woodpiles and solar equipment shall be kept screened by adequate planting or fencing so as to conceal them from view by neighboring residences and streets, and may be maintained in the rear yard of a Lot only. No windows shall be covered by unsightly coverings, including but not limited to paper, foil, or sheets.

6.14 Maintenance.

Each Owner shall keep and maintain each Lot and Structure owned by him, as well as all landscaping located thereon and as well as all landscaping, grass and other Structures installed by such Owner on any portion of the Common Property or within the dedicated rights-of-way, in good condition and repair, including, but not limited to (i) the repairing and painting (or other appropriate external care) of all Structures; (ii) the seeding, watering and mowing of all lawns; and (iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. Notwithstanding the foregoing, the maintenance required hereunder shall also extend from the boundary of a Lot to the curbing of the right-of-way bordering said Lot. If in the opinion of the ACC, any Owner shall fail to perform the duties imposed by this Section, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, return receipt requested, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof. Guidelines relating to the maintenance of Structures and landscaping may be included in the Design Standards of the ACC.

6.15 Commercial and Recreational Vehicles and Trailers.

No commercial vehicle, house trailer, mobile home, motor home, recreational vehicle, camper, truck with camper top, boat or boat trailer or like equipment shall be permitted on any Lot on a permanent basis, but shall be allowed on a temporary basis not to exceed forty-eight (48) consecutive hours. .

6.16 Recreational Equipment.

Recreational and playground equipment shall be placed or installed only upon the rear of a Lot as approved by the ACC. Basketball goals may be placed adjacent to the driveway, as approved by the ACC. No above ground pool shall be allowed.

6.17 Exposed Foundations.

No Residence shall have exposed concrete block foundations.

6.18 Non-Discrimination.

No Owner or person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

6.19 Animals.

No agricultural animals may be kept on any Lot and no animals, including birds, insects and reptiles may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have been approved by the ACC.

6.20 Unsightly or Unkempt Conditions.

The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any property within the Development.

6.21 Solid Waste.

(a) No person shall dump or bury rubbish, garbage, or any other form of solid waste on any Lot or on Common Property. No burial of construction materials, waste or debris (including but not limited to trees, stumps or building materials) is permitted on any Lot or on Common Property.

(b) Except during approved construction and as approved by the appropriate governmental authority, no person shall burn rubbish, garbage or any other form of solid waste on any Lot or on Common Property.

(c) Except for building materials employed during the course of construction of any Structure approved by the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards.

(d) If rubbish, garbage or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on any day that pick-up is to be made, in order to provide access to persons making such pick-up. At all other times such containers shall be screened or enclosed in a manner set forth in the Design Standards. Guidelines relating to the type of containers permitted, the manner of storage and the place of pick-up may also be included in the Design Standards.

6.22 Nuisances.

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereof which may be or may become any annoyance or nuisance to the community.

6.23 Residential Use.

All Lots shall be used for residential purposes exclusively. No business or business activity shall be carried on upon any Lot at any time except with the written approval of the ACC; provided, however, that nothing herein shall prevent ACC and ACC's subsidiaries, affiliates, employees and agents from using any Lot owned or leased by ACC for the purpose of carrying on business related to the development, sale and rental of Lots in the Development. However, the Board may permit a Lot to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or By-Laws, does not create a disturbance and does not unduly increase traffic flow or parking congestion. The Board may issue rules regarding permitted business activities.

6.24 Guns.

The use of firearms in the Development is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and small firearms of all types.

6.25 Site Distance at Intersections.

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

6.26 Utility Lines.

No overhead utility lines, including lines for cable television, shall be permitted within the Development, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

6.27 Air-Conditioning Units.

Except as may be permitted by the Board or its designee, no window air conditioning units may be installed.

6.28 Lighting.

Except for seasonal Christmas decorative lights, all exterior lights must be approved by the Board or its designee.

6.29 Artificial Vegetation, Exterior Sculpture, and Similar Items.

No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the Board or its designee.

6.30 Energy Conservation Equipment.

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

6.31 Sales and Construction Activities.

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

ARTICLE VII
EASEMENTS, ZONING AND OTHER RESTRICTIONS

7.01 Easements.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow; and

(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature.

(b) The rights and easements of enjoyment in and to the Common Property shall additionally be subject to the right of the Declarant to the exclusive use as portions of the Common Property reasonably required, convenient or incidental to the improvement and sale of Lots including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such right of the Declarant may be delegated by it to developers and builders having an interest in the Development, shall be exercised so as to avoid any unnecessary inconvenience to or infringement upon the rights of others and shall continue until such time as such persons no longer own any Lot primarily for the purpose of sale, without affecting any member's obligation to pay assessments coming due during such period of time or the permanent charge and lien on any member's Lot in favor of the Association.

(c) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the property unless such easement has been assigned by the Declarant to the Association.

7.02 Easement Area.

The words "Easement Area" as used herein shall mean those areas on any Lot or any other portion of the Development with respect to which easements are shown on a recorded deed, easement agreement, or on any filed or recorded map or plat relating thereto.

7.03 Entry.

The Declarant and its employees, agents, successors, and assigns shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 7.01.

7.04 Zoning and Private Restrictions.

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

7.05 Easements for Utilities and Public Services.

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

7.06 Easements for Walks, Trails, Signs, and Perimeter Wall.

There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement upon, over, and across (i) those strips of land ten (10) feet in width located along and adjacent to those exterior boundaries located adjacent to streets and roads for all Lots and all Residences, such strips to be bounded by such exterior boundaries adjacent to streets and roads and by lines in the interior of such Lots and Residences which are ten (10) feet from and parallel to such exterior boundaries, for the installation, maintenance, and use of sidewalks, traffic directional signs, and related improvements, provided that Declarant shall have no obligation to construct any such improvements. There is further reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable and perpetual right and easement upon, over, and across those strips of land fifteen (15) feet in width located along those

boundaries of all Lots and Residences that constitute part of the perimeter boundary of the Development, such easement to be for the purpose of constructing, installing, replacing, repairing and maintaining a perimeter wall or fence around all or a portion of the perimeter boundary of the Development, provided that Declarant shall have no obligation to construct any such perimeter wall or fence.

7.07 Easements for Additional Property.

There is hereby reserved in Declarant, and its successors, assigns, and successors-in-title to any additional property which is annexed into the Development pursuant to Article X ("Additional Property") (if said rights are granted by Declarant to such successors, assigns, and successors-in-title), for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Development, perpetual, non-exclusive rights and easements for (i) pedestrian and vehicular ingress, egress, and parking across, within, and on all roads, sidewalks, trails, and parking facilities, from time to time located within the Common Property or within easements serving the Common Property, (ii) the installation, maintenance, repair, replacement and use within the Common Property and those portions of Lots and Residences hereof of security systems and utility facilities and distribution lines, including, without limitation, drainage systems, storm sewers, electrical, gas, telephone, water, sewer, and master television antenna and/or cable system lines, and (iii) drainage and discharge of surface water onto and across the Development, provided that such drainage and discharge shall not materially damage or affect the Development or any improvements from time to time located thereon.

7.08 Environmental Easement.

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

7.09 Granting of and Acceptance of Easements.

The Association shall have the right to grant and accept easements as provided in Section 7.05 hereof and to dedicate or transfer fee simple title to all or any portion of the Common Property to Henry County, Georgia, or to any other public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the fee simple title must be approved by a majority of those present in person or by proxy at a duly held meeting of the Association and by Declarant for so long as Declarant owns any Lot or Residence

primarily for the purpose of sale or has the unexpired option to add any additional property to the Development.

ARTICLE VIII
ENFORCEMENT

8.01 Right of Enforcement.

This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association and (iii) each Owner, his legal representatives, heirs, successors and assigns.

8.02 Right of Abatement.

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

(b) The Right of Abatement, as used in this Section and in Sections 5.11 and 6.14 hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the cost thereof including the costs of collection including reasonable attorneys' fees, together with interest thereon at the lower of the highest rate permitted by law or 12%, to be a binding personal obligation of such Owner enforceable in law, as well as a lien on Owner's Lot, enforceable pursuant to the provisions of Section 8.04 hereof. Such right shall include the right to institute fines, tow cars from Common Property, and other self-help activities. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.01 hereof and (iii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures

which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures.

8.03 Specific Performance.

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

8.04 Collections of Assessments and Enforcement of Lien.

(a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Lot or Lots subject to the lien at auction, at the usual place for conducting sales at the Court House in Henry County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for Henry County, Georgia are published, all other notice being hereby waived by each Owner; and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and that the conveyance to be made by the Association or assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Lot or Lots, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost or other

charge due, together with all costs and expenses of sale and fifteen percent of the aggregate amount due for attorneys' fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

8.05 No Waiver.

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

ARTICLE IX
DURATION AND AMENDMENT

9.01 Duration.

All of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplementary Declaration shall be held, sold, used, and conveyed subject to the terms of this Declaration which shall run with the title to such real property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Development, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Development.

Unless terminated by the Owners as provided below, this Declaration is intended to have perpetual duration. However, so long as Georgia law limits the period during which covenants may run with the land, any provision of this Declaration affected by such law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of 20 years, unless terminated in accordance with O.C.G.A. statute 44-5-60, as it may be amended, within the year proceeding any extension.

Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance, agrees that provisions of this Declaration may be extended and renewed as provided in this Section. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

If any provision of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provision shall continue in effect only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

9.02 Amendments.

Until conveyance of the first Lot improved with a Residence by Declarant or a Declarant-approved builder to a Person for residential purposes, the Declarant may amend this Declaration without the approval of the Association or the Owners. Thereafter, as long as the Declarant owns any property in the Development or which may become part of the Development pursuant to Section 10.1, the Declarant may amend this Declaration without the approval of the Association or the Owners, if such amendment (i) is specifically required to enable any institutional or governmental entity to make, purchase, insure, or guarantee mortgage loans on the Lots, or (ii) does not materially adversely affect the rights of any Owner under this Declaration without such Owner's consent.

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 Owners entitled to cast at least 75% of the total number of Class "A" votes in the Association and the consent of Declarant, so long as Declarant owns any property within the Development or which may become part of the Development pursuant to Section 10.1.

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.

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

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.

Any amendment shall become effective upon recording in the public records of the Clerk of the Superior Court of Henry County, Georgia, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within three 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.

ARTICLE X
ANNEXATION AND FUTURE DEVELOPMENT

10.1 Annexation.

(a) For so long as Declarant has authority to appoint and remove Directors and Officers of the Association, additional real property may be annexed to the Development by the Declarant without the consent of the Class A Members. Such additional real property may, but does not need to be contiguous to any portion of the Development which is then subject to this Declaration; and may be either raw land which is intended to be or is in the process of being developed into residential subdivision lots, or is fully developed into residential lots at the time of annexation. Such annexation shall be accomplished by filing in the Office of the Clerk of the Superior Court of Henry County, Georgia, one or more Supplementary Declarations with respect to the additional properties, executed by the Declarant, its successors or assigns, which shall extend the scheme of the Covenants contained herein to such properties and thereby subject such additions to assessment for their just share of the Association expenses. Said Supplementary Declarations may contain such complimentary additions and modifications of the Covenants contained herein as may be necessary to reflect the different character of the additional properties as are not inconsistent with the scheme of this Declaration. In no event, however, shall any such Supplementary Declaration revoke, modify, or add to the Covenants established by this Declaration regarding the property described in said Exhibit "A". If the additional properties or any portion thereof are made subject to the provisions hereof, Declarant, its successors and assigns, shall have the right, but not the obligation, to construct on the additional properties such recreational and other facilities as Declarant, its successors and assigns, shall deem advisable for the common use and enjoyment of the Owners. If someone other than Declarant owns the real property to be annexed, the Supplementary Declaration shall be consented to by the owner of the real property to be annexed in addition to being signed by the Declarant.

(b) At the expiration of Declarant's right to appoint and remove Directors and Officers of the Association, no real property may be annexed to the Development unless such annexation is approved by a two-thirds (2/3) vote of the Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association. Declarant also reserves the right to amend this Declaration unilaterally at any time so long as it has the authority under this Article without the prior notice and without the consent of any owner, for the purpose of removing certain portions of the Development then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Development desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development of the Development.

ARTICLE XI
MISCELLANEOUS

11.01 No Reverter.

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

11.02 Severability.

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

11.03 Headings.

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

11.04 Gender.

Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

11.07 Insurance.

(a) Required Coverage. The Association shall obtain and maintain at all times as a common expense, the following insurance coverage:

(i) property insurance on the Common Property insuring against all risks of direct physical loss commonly insured against. The total amount of such insurance, after application of any deductibles, shall not be less than 80% of the actual cash value of the insured property (exclusive of land, excavations, foundations, and other items normally excluded from "all risk" property insurance policies); however, the Board shall be authorized to obtain coverage for 100% of the replacement cost of such insurable improvements;

(ii) comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board in the exercise of its business judgment, but with a combined single limit of not less than One Million Dollars ($1,000,000.00), to the extent reasonably available, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Property;

(iii) officers' and directors' liability insurance in such amounts as the Board, in its business judgment, may determine necessary, but not less than One Million Dollars ($1,000,000.00) per occurrence, (if reasonably available);

(iv) fidelity bonds covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds, if reasonably available (the amount of such bonds shall be in an amount which, in the Board's business judgment, reflects the estimated maximum amount of funds, including reserve funds, in the custody of the Association at any time during the term of the bond);

(v) flood insurance, if the Board of Directors determines it necessary or advisable;

(vi) worker's compensation insurance, if and to the extent necessary to meet the requirements of law; and

(vii) such other insurance as the Board determines to be necessary or advisable.

The Board shall conduct an insurance review to determine the adequacy of insurance coverage at least once every two years. Each Owner shall have the right to obtain additional coverage at his or her own expense, for improvements made by such Owner. All policies may contain reasonable deductibles. Each Lot Owner shall notify the Board of any structural improvements made by the Owner to his or her Lot.

(b) Policy Requirements. All insurance coverage obtained by the Association shall be written in the name of the Association as trustee for the Owners and the Mortgagees of Lots, as their interests may appear. Each Owner shall be an insured person under the liability insurance policy with respect to liability arising out of his or her membership in the Association. In addition, the policies providing the coverage required under clauses (i) and (ii) of subsection (a) above shall provide that the insurer waives its rights of subrogation against any Owner or members of an Owner's household; that any "other insurance" clause contained in the policy expressly excludes an Owner's policies from its operation; and that no act or omission by any Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

In addition to the above, the Board shall use reasonable efforts to secure policies providing:

(i) that the policy cannot be canceled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association, or the managing agent, nor may the conduct of any of the above be made a condition to recovery under the policy;

(ii) that the policy may not be jeopardized, canceled, or substantially modified without at least 30 days' prior notice in writing to the Board, all Owners, and each Mortgagee to whom certificates of insurance have been issued; and

(iii) an agreed value endorsement and an inflation guard endorsement.

All policies of insurance shall be written with companies licensed to do business in the State of Georgia. Such companies shall issue certificates or memoranda of insurance to the Association, and, if requested in writing, to any Owner or Mortgagee so requesting.

(c) Insurance Deductibles. In the event of an insured loss giving rise to a claim under property insurance carried by the Association, the amount of the deductible shall be considered a maintenance expense to be paid by the Person or Persons (including the Association) who would otherwise be responsible for such repair in the absence of insurance, except that if the loss under a policy maintained by the Association affects more than one Lot or a Lot and the Common Property, the cost of the deductible shall be a common expense of the Association.

(d) Association's Insurance Coverage Primary. To the extent that the Association is required to maintain insurance under this Section, the Association's insurance shall be primary and shall not be brought into contribution with individual policies of insurance purchased by Owners or their Mortgagees.

(e) Limitations. Nothing in this Section gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds.

(f) Reducing Risk and Insurance Costs.

(i) The Board of Directors shall have the authority to require all or any Owners to do any reasonable act or perform any reasonable work to their Lots which will, in the Board's sole discretion, decrease the possibility of fire or other damage, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage; however, if the cost of providing such required work would exceed Three Hundred Dollars ($300.00) per Lot in any fiscal year, then the required work shall be subject to approval at a duly called and constituted meeting of the Association by the affirmative vote, in person or by proxy, of Owners holding at least two-thirds (2/3) of the total Class "A" vote and the approval of the Class "B" Member, so long as the Class "B" Membership exists. This authority shall include, but shall not be limited to, requiring Owners to install smoke detectors and such other measures as the Board may reasonably require.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if any Owner does not comply with any reasonable requirement made by the Board pursuant to this paragraph, the Association, upon 15 days' written notice (during which period the

Owner may perform the required act or work without further liability), may perform such required act or work at the Owner's sole cost and expense. Such cost shall be added to and become a part of the Assessment obligation of such Owner, shall become a lien against the Unit, and may be collected as provided in Article IV hereof. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this paragraph, including, but not limited to, a right of entry as set forth in this Declaration.

(g) Repair and Reconstruction After Casualty Loss. In the event of damage to or destruction of all or part of the Community insured under policies maintained by the Association, as a result of fire or other casualty, unless (i) this Declaration is terminated, (ii) reconstruction or repair is prohibited by law or by local health or safety statute, or (iii) Owners holding at least 75% of the total Class "B" vote, including the Owner(s) of the damaged Lot(s), if applicable, vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure in accordance with the original plats of survey and floor plans. In the event of substantial damage or destruction, each Mortgagee shall be entitled to written notice of the damage, and nothing in the Governing Documents shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Unit.

The procedure for repair and reconstruction shall be:

(i) Immediately after a fire or other casualty causing damage to any portion of the Common Property, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures to a condition as good as that which existed before such casualty. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(ii) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, Special Assessments shall be made against all of the Lots without necessity of approval of the membership. If after repair and reconstruction is completed, there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

(iii) Any such reconstruction or repair shall be substantially in accordance with the plats of survey, floor plans, and specifications under which the damaged structures were originally constructed.

(iv) Encroachments upon or in favor of Lots which may be created as a result of such reconstruction or repair shall not constitute a basis for any claim, proceeding, or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was

substantially in accordance with the plats of survey, floor plans, and specifications under which the improvements were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(v) The net proceeds of the insurance collected because of a casualty and the funds collected by the Association from Assessments against Owners because of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this subparagraph.

(vi) The construction fund shall be paid by the Association in appropriate progress payments to such contractors, suppliers, and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as the Board may designate.

11.08 Merger.

Upon a merger or consolidation of the Association with another association, its property, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the property, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants contained herein within the Development, together with the covenants and restrictions established upon any other properties as one plan. Except as hereinafter provided, no such merger or consolidation shall effect any revocation, change of or addition to the Covenants established by this Declaration within the Development. No such merger or consolidation shall be effective, however, unless first approved by the Association's Board of Directors and by members entitled to cast at least two-thirds (2/3) of the votes of each class of members. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the Association, during any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may enter into a merger or a consolidation of the Association in its sole discretion, without the approval of any member or mortgagee.

11.09 Perpetuities.

If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of George W. Bush, current President of the United States of America.

11.10 No Partition.

There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

ARTICLE XII
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first mortgages on Residences in the Development. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.01 Notices of Action.

An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Residence on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

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

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

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

12.02 Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation and/or its successors, the following provisions apply in addition to and not in lieu of the foregoing. Unless

at least two-thirds (2/3) of the first mortgagees or at least two-thirds (2/3) of the total Members of the Association entitled to vote thereon consent, the Association shall not:

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

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an owner of a Residence;

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

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

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

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

12.03 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 Residence in the cases of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

12.04 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 Residence. Further, each Owner shall be obligated to inform the Association in writing of the sale by each Owner of such Owner's residence, including the date of the sale, the name of the purchaser, and the forwarding

address for the selling Owner. Such notice shall be accompanied by a copy of the deed of conveyance from the selling Owner to the purchaser.

12.05 Amendment by Board.

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

12.06 Applicability of Article XII.

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.

12.07 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.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed the day and year first above written.

Signed, sealed and delivered in the presence of:

Unofficial Witness

Notary Public
Notary Public, Gwinnett County, Georgia
My Commission Expires February 14, 2004

DECLARANT: HERMAN & JONES, INC., a Georgia corporation

By: _____ (SEAL)
Name: Jeffrey M. Herman
Title: President

[CORPORATE SEAL]

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EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 131 of the 11th Land District of Henry County, Georgia as more particularly described on that certain final plat for Hambrick Creek – Unit One, prepared by Conceptual Design Engineering, Inc., George T. Chapman, G.R.L.S. No. 1934, dated September 11, 2002, and recorded on November 25, 2002 in the official records of the Clerk of the Superior Court of Henry County, Georgia in Plat Book 36, Page 113, *et seq.* as the metes and bounds are more particularly described therein.

EXHIBIT "B"

BY-LAWS OF HAMBRICK CREEEK COMMUNITY ASSOCIATION, INC.

BY-LAWS

OF

HAMBRICK CREEK COMMUNITY ASSOCIATION, INC.

ARTICLE I

NAME

The name of the association is Hambrick Creek Community Association, Inc., hereinafter referred to as the "Association".

ARTICLE II

DEFINITIONS

Unless otherwise set forth herein, the terms used in these By-Laws shall have the same meanings ascribed to such terms as set forth in the Declaration of Covenants, Restrictions and Easements for Hambrick Creek Subdivision recorded _____, in Deed Book _____, Page _____ of the Henry County, Georgia which has been executed by Tim Jones Properties, Inc., as such Declaration may be amended from time to time, and which Declaration is incorporated herein by reference (the "Declarant").

ARTICLE III

MEETINGS

3.1 Annual Meeting of Members. The regular annual meeting of the members shall be held not earlier than October 1 nor later than December 15 of each year, commencing with the calendar year 2004, on a date (which is not a legal holiday) and at such place within the State of Georgia, as shall be designated in the call of meeting pursuant to Article 3.3 below. If no such date is designated, the annual meeting shall be held on the first Monday in December, if not a legal holiday, and if a legal holiday, then on the next business day succeeding. The Members shall at such annual meeting elect a Board of Directors for the ensuing year, in the manner provided in Article IV hereof, and shall have authority to transact any and all business which may be brought before such meeting.

3.2 Special Meeting of Members. Special meetings of Members shall be held, at such place within the State of Georgia, as shall be designated in the call of the meeting. Special meetings may be called by the President at any time and must be called by the President when so requested in writing by any two Directors or by twenty-five percent (25%) of the Class "A" Membership.

3.3 Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers of persons calling the meeting.

In the case of a special meeting or when otherwise required by the 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.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Association, with postage prepaid.

3.4 Quorum. Unless otherwise provided in the Declaration, a quorum at any meeting of Members, whether annual or special, shall consist of the presence at such meeting, in person or by proxy, of Members entitled to cast one-tenth of the votes of each Class of Membership. Unless otherwise provided in the Articles of Incorporation of the Association, or in the Declaration, or in these By-Laws, a majority of the votes entitled to be cast by all Members present at a meeting shall be necessary and sufficient to decide and act upon any question which shall come before the meeting. No business shall be transacted at any meeting unless a quorum is present.

3.5 Voting. Voting rights of Members shall be as set forth in the Declaration. Where any Member is a group or entity other than one individual person, the vote on behalf of such Member shall be exercised only by such individual person as shall be designated in proxy instrument duly executed by or on behalf of such Member and delivered to the Secretary of the Association.

ARTICLE IV

DIRECTORS

4.1 Number. The affairs of this Association shall be managed by an initial Board of one director ("Director"), who need not be Members of the Association. At any time prior to the time that control of the Association passes to the Class "A" Members as provided in the Declaration, Declarant acting alone may decrease the number of Directors to not less than three nor more than nine Directors.

4.2 Control by Declarant.

(a) Notwithstanding any other language or provision to the contrary in these By-Laws of the Association, in the Articles of Incorporation, or in the Declaration, Declarant hereby retains the right to appoint and remove any members of the Board of the Association and any officer or officers of the Association until 15 days after the first of the following events shall occur: (i) the

expiration of 20 years after the date of the recording of the Declaration; (ii) the date upon which all of the Residences intended by Declarant to be a part of the Development have been conveyed by Declarant to Owners other than a person or persons constituting Declarant; or (iii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to the Declaration executed and recorded by Declarant.

(b) Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots; and a special meeting of the Association shall be called at such time. At such special meeting, the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board and the Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession. Each Owner by acceptance of a deed to or other conveyances of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Section. The Association may exercise any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

4.3 Term of Office. At the first annual meeting after control of the Association has passed to the Class "A" Membership, the Board shall initially be constituted with three Directors in accordance with the following procedure. The Members shall elect one Director to serve a one year term, one Director to serve a two year term, and one Director to serve a three year term. Successor Directors shall be elected for two year terms, and shall hold office until their successors have been elected.

4.4 Removal. Once the control of the Association passes to the Class "A" Members as provided in the Declaration, any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

4.5 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

4.6 Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

4.7 Nomination. Nomination for elected members to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual

meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

4.8 Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

4.9 Regular Meeting of Directors. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

4.10 Special Meeting of Directors. Special meetings of the Board of Directors shall be held, at such place within the State of Georgia, as shall be designated in the call of such meetings. Special meetings of the Board of Directors may be called by the President at any time, in his discretion, and must be called by the President whenever so requested in writing by two Members of the Board of Directors.

4.11 Notice of Meetings. Notices of special meetings of the Board of Directors shall be given by the President or the Secretary to each Member of the Board, not less than three (3) days before the time at which such meetings are to convene. Said notices may be given by telephone, or by any other form or written or verbal communication. It shall not be necessary for notices of special meetings of the Board of Directors to state the purposes or objects of the meetings. The Directors may waive notice of any meeting. Action may be taken by the Directors without a meeting if such action is consented to in writing by all of the Directors.

4.12 Quorum. A quorum at any meeting of the Board of Directors shall consist of a majority of the Members of the Board. Unless otherwise provided in the Articles of Incorporation of the Association, or in these By-Laws, or in the Declaration, a majority of those present at any meeting at which a quorum is present may decide any questions which may come before the meeting.

4.13 Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association, without the necessity of providing notice and hearing to the Member. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

4.14 Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class "A" Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least 30 days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within 30 days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be

made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Property to be maintained;

(h) maintain any and all landscaping treatments previously installed by the Declarant, to the extent that such landscaping is not otherwise maintained by the appropriate county and/or municipal entity having jurisdiction over the roads for the Development.

ARTICLE V

OFFICERS AND THEIR DUTIES

5.1 Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create. Notwithstanding the above, during the period of time in which the Declarant is exercising its right to appoint the directors of the Association, the officers of the Association need not be members of the Board of Directors.

5.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

5.3 The officers of this Association shall be elected annually by the Board and each shall hold office for one year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

5.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

5.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of 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.

5.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

5.7 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 5.4 of this Article or in the case of the director appointed by Declarant.

5.8 Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VI

MISCELLANEOUS

6.1 The Declaration. All provisions contained in the Declaration with regard to rights, powers and duties of the Association, the Members thereof (including, without limitation, classes of Members and qualifications and rights of the Members of each class), and the Board of Directors thereof, are hereby incorporated into these By-Laws by this reference, with the same effect as if such provisions were fully set forth herein.

6.2 Committees. The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

6.3 Books and Records. The books and records of the Association shall at all times, during reasonable business hours, be open for inspection by any Members of the Association.

6.4 Indemnification. The indemnification provisions of O.C.G.A. Sections 14-3-850 through 14-3-858, including subsequent amendments, are incorporated herein by reference.

6.5 Fiscal Year. The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such a resolution, the fiscal year shall be the calendar year.

6.6 Parliamentary Rules. *Robert Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, these By-Laws, or a ruling made by the Person presiding over the proceeding.

6.7 Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, these By-Laws, then the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.8 Notices. Unless otherwise specified in the Declaration or By-Laws, all notices, demands, bills, statements, or other communications required or permitted to be sent 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 first class mail, 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 last known address of the Member; or

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

If there are multiple Owners of a single Lot, notice to one shall be deemed notice to all.

6.9 Amendment. The provisions of the Declaration applicable to amendment of that instrument shall apply to any amendment to these By-Laws, except that any requirement of recording any amendment which is contained in the Declaration shall not apply to any amendment of these By-Laws.

6.10 Fining Procedure. The Board shall not impose a fine (a late charge shall not constitute a fine) unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

(i) the alleged violation;

(ii) the action required to abate the violation; and

(iii) a time period, not less than 10 days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a fine, if the violation is not continuing. The Board or its designee may demand immediate abatement in such circumstances which, in the Board's determination, pose a danger to safety or property.

(b) Notices. Within 12 months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board may, upon notice, impose a fine. The notice shall state:

(i) the nature of the alleged violation;

(ii) that the alleged violator may, within 10 days from the date of the notice, request a hearing regarding the fine;

(iii) that any statement, evidence, and witnesses may be produced by the alleged violator at the hearing; and

(iv) that all rights to have the fine reconsidered are waived if a hearing is not requested within 10 days of the date of the notice.

(c) Hearing. If a hearing is requested, it shall be held before the Board in executive session, and the alleged violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing.

CERTIFICATION BY SECRETARY

I, _____, Secretary of HAMBRICK CREEK COMMUNITY ASSOCIATION, INC., do hereby certify that the foregoing pages (not including this page) are a true and complete copy of the Association's By-Laws as submitted to and adopted by its Board of Directors on the _____ day of _____, 2003.

IN WITNESS WHEREOF, I have set my hand and the seal of the Corporation hereto this _____ day of _____, 2003.

_____
Secretary

[CORPORATE SEAL]

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