

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR
BLACKBURN FOREST SUBDIVISION

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THIS DECLARATION is made on the date hereinafter set forth by **BLACKBURN FOREST DEVELOPMENT, L.L.C.**, a Domestic Georgia corporation, (hereinafter called “Declarant”).

BACKGROUND STATEMENT

Declarant is the owner of certain real property in LUMPKIN County, Georgia being more particularly described in Exhibit “A” of this Declaration.

Declarant intends to develop lands, including the real property above, a development to be known as **BLACKBURN FOREST SUBDIVISION** (hereinafter referred to as the “Development”). 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 the property now or hereafter made subject to this Declaration. 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.

NOW, THEREFORE, Declarant hereby declares that the real property described above including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby made subject hereto, and shall be binding on all Persons having any right, title, or interest in all or any portion of the real property now made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof, and to the benefit of the Association.

ARTICLE I DEFINITIONS

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

- (a) **“Association”** shall mean and refer to BLACKBURN FOREST SUBDIVISION HOMEOWNERS ASSOCIATION, a nonprofit Georgia corporation, its successors and assigns.
- (b) **“Board of Directors”** or **“Board”** of the Association shall be the appointed or elected body, a applicable, having its normal meaning under Georgia corporate law.
- (c) **“Bylaws”** shall refer to the Bylaws of BLACKBURN FOREST SUBDIVISION HOMEOWNERS ASSOCIATION, attached to this Declaration as Exhibit “B” and incorporated herein by this reference.
- (d) **“Common Property”** shall mean and refer to all real and personal property owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners. Common Property shall include but not be limited to walking trails and detention ponds as shown on the recorded subdivision plat.
- (e) **“Development-Wide Standard”** shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Development. Such standard may be more specifically determined by the Board of Directors of the Association and by committees required or permitted to be established pursuant to this Declaration or the Bylaws. Such determination, however, must be consistent with the Development Wide Standard originally established by the Declarant.
- (f) **“Declarant”** means **BLACKBURN FOREST DEVELOPMENT, L.L.C.**, and 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”, or the real property which is intended to become part of the Development, and provided further in the instrument of conveyance to any such successor-in-title or assign, or in a separate instrument recorded in the Deed Records of Lumpkin County, Georgia, such successors-in-title or assigns is designated as the “Declarant” hereunder by

the party executing such instrument, which party is the “Declarant” hereunder at the time of such execution of such instrument; provided, further, upon such designation of a 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 property described in Exhibit “A”, attached hereto, and to which is now or hereafter subjected to this Declaration, there shall be only one person or legal entity entitled to exercise the rights and powers of the “Declarant” hereunder at any one time.

- (g) **“Lot”** shall mean any plot of land within the Development, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site as shown on the plat for the Development, or amendments thereto, recorded in the land records of Lumpkin County, Georgia. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association.
- (h) **“Majority”** means those eligible vote, Owners, or other groups as the context may indicate totaling more than fifty percent (50%) of the total eligible number.
- (i) **“Mortgage”** means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.
- (j) **“Mortgagee”** shall mean the holder of a Mortgage.
- (k) **“Occupant”** shall mean any Person occupying all or any portion of a Lot or other property located within the Development for any period of time, regardless of whether such person is a tenant or the Owner of said property.
- (l) **“Owner”** shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Development, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.
- (m) **“Person”** means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.
- (n) **“Residence”** means a structure and the Lot on which it is situated, which is intended for independent use and occupancy as a residence for a single family. A structure and the Lot upon which it is situated 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 shall have been conveyed to a party other than the builder thereof.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property described in Exhibit “A” attached hereto and by reference made a part hereof.

ARTICLE III COMMON PROPERTY

Section 1. Conveyance of Common Property.

- (a) The Declarant may from time to time convey, at no expense to the Association, to the Association real and personal property, and may grant easements to the Association, for the common use and enjoyment of the Owners of Residences (such real and personal property and easements are hereinafter collectively referred to as “Common Property”) and, to the extent set forth in this Declaration of Covenants, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances and grants of Common Property.

- (b) It is contemplated by the Declarant that the Declarant will convey to the Association the Common Property. 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 1 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 1, the Declarant may convey to the Association in accordance with this Section 1 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 property 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, by a deed recorded in the Deed Records of Lumpkin County, Georgia.
- (e) Walking Trails, Lakes, dams and retention ponds shall, without limitations, 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 lake or retention pond that may be conveyed.

Section 2. 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 of Residences 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 is subject to suspension by the Association as provided in this Section 3 (f) and Article IV, Section 5.

Section 3. Rights of the Association. The rights and privileges conferred in Section 2 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 revenues from assessments, user fees, and other sources; provided, however, that during the period when Declarant has the right to appoint members of the Board, the Association shall not deed, grant or convey to 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 of the Association; and further provide that the right to encumber Common Property shall be subject to the provisions of Article XI;
- (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 systems;
- (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 of the Association, cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority;
- (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 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 Article IV, Section 5, the voting rights of any Member and the rights of enjoyment granted or permitted by this Section 3;

- (g) sell, lease or otherwise convey all or any part of its properties and interests therein;
- (h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof; and
- (i) maintain and keep in good repair the Common Property to the extent that such Common Property is not otherwise maintained by the applicable governmental authority.

Section 4. 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 of its Members.

Section 5. Types of Common Property. At the time of the conveyance of any real property or grant of any easement by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not be used for any different purpose or purposes without the prior written consent of the Declarant and a two-thirds (2/3) vote of the Members of the Association.

Section 6. 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.

Section 7. 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, and shall maintain all entry features, fencing, walls, lighting and irrigation systems, if any, which were installed by Declarant, and shall maintain all storm water and detention facilities serving the Development until such facilities are dedicated to and accepted for maintenance purposes by the applicable governmental authority. The foregoing maintenance shall be performed consistent with the Development-Wide Standard.

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 agreements to share costs regarding such property where the Board has determined that this would benefit the Owners.

ARTICLE IV

BLACKBURN FOREST SUBDIVISION HOMEOWNERS ASSOCIATION

Section 1. Purpose, Powers, and Duties of the Association: The Association has been formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the people of the Development. The Association shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the people of the Development. To the extent, and only to the extent, necessary to carry out such purpose, and subject to any limitations contained in this Declaration, the Association (a) shall have all of the powers of a corporation organized under the Georgia Non-Profit Corporation Code; and (b) shall have the power and duty to exercise all of the rights, powers, and privileges and to perform all of the duties and obligation of the Association as set forth in this Declaration.

Section 2. Members in the Association: Every Owner shall automatically be a Member of the Association and such membership shall terminate only as provided in this Declaration of Covenants, Restrictions, and easements. For purpose of voting, there shall be two (2) classes of Members as set forth in Section 3.

Section 3. Voting Rights:

- (a) Each owner of a Lot, with the exception of Declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote per Lot owned by such 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) The Declarant shall be the sole Class B Member and shall be entitled to three (3) votes for each Lot owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). The Class B Membership shall have and be converted to Class A Membership at such time as Declarant no longer retains the right to appoint and remove members of the Board and officers of the Association pursuant to Section 8 below:

Section 4. 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.

Section 5. 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 by reason of having failed to take 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 Article VI.
- (b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article VII thereof; or
- (c) shall be in violation of any of the rules or regulations of the Association relating to the use, operation, or 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 5, the suspension may be for a period not to exceed sixty (60) days after the cure or termination of such violation. No suspension shall interfere with an Owner's ingress to or egress from his Lot.

Section 6. Termination of Membership: Membership shall cease only when a person ceases to be an Owner.

Section 7. 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 Non-Profit Corporation Code, the Articles of Incorporation of the Association, and the By-Laws of the Association, a copy of which is attached hereto as Exhibit "B", as each shall from time to time be in force and effect.

Section 8. Control by Declarant:

- (a) Notwithstanding any other language or provisions to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the Association, Declarant hereby retains the right to appoint and remove all members of the Board of the Association, and all officers of the Association until the first of the following events shall occur:
 - (i) the expiration of seven (7) years after the date of the recording of this Declaration; (ii) the date upon which seventy-five (75) percent of all of the Residences submitted or proposed to be submitted to this Declaration have been conveyed 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 this 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 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. 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.

**ARTICLE V
ASSESSMENTS**

Section 1. Covenants for Assessments and Creation of Lien and Personal Obligation:

Each Class A member, by acceptance of a deed or other conveyance for any Residential Unit in the Restricted Property, whether or not is shall be so expressed in any deed or other conveyance, shall be deemed to covenant and agreed to pay the Association:

(a) Annual assessments and charges and

(b) Special assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interests thereon and cost of collection thereof as hereinafter provided shall be a charge.

(c) That there is hereby created a continuing charge and lien upon all residences owned by him against which all such assessments are made to secure payment of such assessment and any interest thereon as provided in Section 9 hereof and costs of collection including reasonable attorney's fees;

(a) that such continuing charge and lien on such Residence binds such Residence in the hands of 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, and encumbrances imposed which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by an 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) any first mortgage on a Lot or Lots which has been recorded prior to the date of such continuing charge and lien (a "Prior Recorded First Mortgage"); such continuing charge and lien shall not be affected by any sale or transfer of a Lot, except that a sale or transfer of a lot pursuant to a foreclosure of a Prior Recorded First Mortgage shall extinguish such continuing charge and lien;

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

(c) That all annual special and specific assessments (together with interest thereon as provided in Section 9 of this Declaration and costs of collection (including reasonable attorney's fees) levied against any Residence owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Residence as provided in this Section 1) a personal obligation which will survive any sale or transfer of the Residence owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.

Section 2. Purpose of Assessment: The assessments levied under this Association shall be used exclusively for the purpose of providing for the common good and general welfare of the people of the Development, including, but not limited to, security, the acquisition, construction, improvement, maintenance, and equipping of Common Property, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design standards of the ACC, the payment of operating costs and expenses of the Association, and the payment of all principal and interest when due on all debts owed by the Association.

Section 3. 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 purpose.

Section 4. Basis and Maximums of Annual Assessments: Until such time as the Class A member shall be entitled to full voting privileges in accordance with Article VI of this Declaration:

(a) The maximum initial annual assessment of Class A members shall be Two Hundred dollars (\$200.00) per residential unit payable to the Association and

(b) The Class B members shall pay whatever amount, if any, in excess of the Class A members' assessment as, in the sole opinion of the Class B member, may be necessary to maintain and manage (and only to maintain and manage, including the payment of ad valorem taxes) the Common Area. From and after such time as the Class A member shall be entitled to full voting privileges and in accordance with Article 3 of this Declaration, the annual assessment shall be determined by the Board of Directors of the Association without regard to the maximum annual assessment imposed prior to such time and shall be paid by all the members; provided, however, that any assessment after the initial assessment set by the Board of the Association shall not be increased (or decreased) in any one year by an amount in excess of Ten percent (10 %) of the assessment for the year immediately prior to the year for which the increase (or decrease) is to be effective. The Board of Directors of the Association shall set the annual assessment at less than the maximum allowed pursuant to this Section.

Section 5. Special Assessments: In addition to the annual assessment authorized by this Article V, 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, if such special assessments in the aggregate do not exceed and amount equal to the annual assessment then in effect. Special assessments exceeding said amount shall require the approval of a one-half (1/2) vote of the Members of the Association.

Section 5. Equality of Assessment among Residential Units: No Residential Unit within the Restricted Property shall bear a higher assessment than another Residential Unit within the Restricted Property except that, until such time as the Class A member shall be entitled to full voting privilege in accordance with Article 3 of this Declaration, the Class B members may bear a greater or lesser assessment burden than the Class A member while the Class B member may be subsidizing the Association with this obligation pursuant to Section 3 of this Article.

Section 6. Date of Commencement of Annual Assessments; Due Dates.

(a) The Association's Board of Directors shall send written notice of the annual assessment and the amount of such assessment to every member subject thereto at least thirty (30) days in advance of each annual assessment. Unless otherwise provided by the Association's Board of Directors, the entire amount of the annual assessment for each Residential Unit shall become due and payable to the Association on the 90th day of each year and shall be paid to the Association without further notice from the Association; provided however that in the event the Board of Directors shall fail to send written notice of the annual assessment to members at least thirty (30) days prior to the annual assessment period the payment for the annual assessment shall not be due until thirty (30) days after such notice is given; the failure to notify thirty (30) days prior to annual assessment period shall not however reduce the amount of the assessment due and payable.

The annual assessment shall be established on a calendar year basis and shall commence as to each member when he becomes a member.

The first annual assessment payable to the Association with respect to a Residential Unit shall be adjusted according to the number of days remaining in the calendar year following the date a member becomes a member.

(b) The Association shall, upon demand at any time, furnish to any member liable for any assessment a certificate in writing signed by an officer of the Association setting forth whether said assessments has been paid.

A reasonable charge, as determined by the Board of Directors may be made for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effective Nonpayment of Assessment: the Personal Obligation; the Lien; Remedies of the Association.

(a) If an assessment is not paid on or before the date when due then such assessment shall become delinquent and shall. Together with such interest thereon and the cost of the collection thereof if hereinafter, thereon become a continuing lien on the delinquent members' property which shall bind such property in the hands of the then owner, his heirs, designees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then owner to pay such assessments shall remain his personal obligation and shall also pass to his successors in title. Such owners shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer; and such owner and such successors in title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such owners and successors in title creation Areas.

Section 8. 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, and the sum of annual, special, and specific assessments collected by the Association in any Assessment Year, and such advances shall be deemed to be loans to the Association and shall be evidenced by promissory notes from the Association to Declarant, which shall be due and payable upon demand, with interest at the rate of twelve (12%) percent per annum after demand.

Section 9. Effect of Non-Payment 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 twelve (12%) percent per annum, or 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 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 Residence enforceable in accordance with the provisions of this Declaration.

Section 10. Certificate of Payment: Upon written demand by an Owner, the Association shall within a reasonable period of time issue 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 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.

Section 11. Approval by Declarant: Notwithstanding anything to the contrary contained herein, no special assessment shall be made without the approval of Declarant for so long as Declarant has the right to appoint and remove officers and directors of the Association.

Section 12. Specific Assessments: The Board shall have the power to specifically assess pursuant to this Section as, in its direction, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Owners for the Following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as, provided herein:

- (a) expenses of the Association which benefit less than all of the Residences, which may be specifically assessed equitably among all of the Residences which are benefited according to the benefit received;
- (b) expenses incurred by the Association pursuant to Article VII hereof; and
- (c) reasonable fines as may be imposed in accordance with the terms of this Declaration and the By-Laws.

ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee – Creation and Composition:

- (a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than one (1) or more than three (3) 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 or serve as the members of the ACC until the plans for all of the Residences for all of the Lots in the Development have been approved by the ACC. Thereafter, the Board 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 initial member of the ACC shall be appointed for a term expiring on December 31, 2003. Thereafter, each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall, subject to the provisions of Section 1(a), be filled by the Declarant (or the 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 while the Declarant has power to appoint members of the ACC pursuant to the provision of Section 1 (a) hereof (or by the Board if at the time the Board has the right to appoint members of the ACC).

Section 2. 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.

Section 3. Officers, Subcommittees, and Compensation: The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other reasonable out-of-pocket costs incurred in the performance of their duties as members of the ACC.

Section 4. Operations of the ACC:

(a) **Meetings:** The ACC shall hold regular meetings at least once every six (6) months or more often as may be established by the ACC. Special meetings may be called by the Chairman at any time, 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 three (3) days before the day the meeting is to be held. Notice of regular and 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 objection 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 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 of the Association. 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 for 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 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) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or to appeal by the applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in

question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

Section 5. Design Standards:

- (a) The ACC shall from time to time adopt, promulgate, amend, revoke, and enforce guidelines (the “Design Standards”) for the purpose of:
 - (i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;
 - (ii) governing the procedures 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 Owners and prospective Owners and to all applicants seeking the ACC’s approval.

Section 6. 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 therefore 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 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 set backs, open spaces, and driveways;
- (b) a foundation plan;
- (c) exterior elevations of all proposed Structures and alterations to existing Structures; and
- (d) specifications of materials, color scheme, and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures.
- (e) a landscape plan indicating all proposed changes to the existing landscape, including grade, proposed landscaping, site lighting, and drainage.

Section 7. Approval of Plans and Specifications: Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, one (1) copy 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, 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 all conditions attached to any such approval.

Section 8. 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; or
- (c) any other matter which, in the judgment of the ACC, would like 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 Standards, or (ii) as to location to be incompatible with topography, finished ground elevation, or surrounding Structures. In any case in which the ACC shall disapprove any plans or 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 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.

Section 9. Obligation to Act: The ACC shall take action on any plans and specifications submitted as herein provided within fourteen (14) 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 the ACC to take action within fourteen (14) days after receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

Section 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.

Section 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 option of the ACC such violation shall have occurred, the ACC shall notify the Association, and the Board shall take appropriate measures to correct the violation; the Board shall provide written notice to the Owner by certified mail, 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 thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Article XIII hereof.

Section 12. Certification 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 lender in good faith and for value or title insurer, such Certificate shall be conclusive evidence that all Structures on the Lot comply with all of 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 or workmanship of 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 or in accordance with every detail on the approved plans and specifications.

Section 13. Fees: The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and specifications and of inspections performed pursuant to Section 10. The fee shall be established from time to time by the ACC and published in the Design Standard.

Section 14. Non-Discrimination 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.

Section 15. Disclaimer as to ACC Approval: Plans and specifications are not reviewed for engineering, structural design, structural integrity, quality of materials, or compliance with any local, state, or federal laws, including local building codes and zoning ordinances, and by any local, state, or federal laws, 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 therefore, 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 or specifications. Every person who submits plans and specifications and every owner agrees that he will not bring any action or suit against 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 them, to recover any such damages and hereby releases, remises, quitclaims, and covenants not to sue all such persons and entities for all claims, demands, and caused of action arising out of or in connection with any judgment, negligence, or non-feasance 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.

ARTICLE VII MAINTENANCE

Section 1. Association's Responsibility: The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance repair or, replacement, subject to any insurance then in effect, of all landscaping and improvements, if any, situated on the Common Property. The Association shall maintain all entry features for the Development and street signs originally installed by the Declarant, if any. There is hereby reserved to the Association a blanked easement upon, across, over, and under all property within the Development for access, ingress, and egress as necessary to permit the Association to perform such maintenance.

Section 2. Owner's Responsibility: Except as provided in Section 1 above, all maintenance of the lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Development-Wide Standard and this Declaration. If the Board of Directors of the Association determines that (a) any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder; or (b) that the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement, or maintenance and shall, except in the event of an emergency situation give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's sole cost and expense. The notice set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement, at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

ARTICLE VIII USE RESTRICTIONS AND RULES

Section 1. General: This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may be amended only in the manner provided in Article XIV, hereof regarding amendment of this Declaration. The Board of Directors may, from time to time, without consent of the members, promulgate, modify, or delete use restriction and rules and regulations applicable to the Lots and the Common Property. Such regulations and use restrictions shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the Total Association Vote.

Section 2. Use of Lots: All lots shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on or upon any Lot at any time except with the prior written approval of the Board.

Section 3. Signs: No sign of any kind shall be erected by Owner or Occupant within the Development without the written consent of the Board except: (a) such signs as may be required by legal proceedings; and (b) not more than one (1) "For Sale" sign consistent with the Development-Wide Standard. The Board and Declarant shall have the right to erect any reasonable and appropriate signs.

Section 4. Recreational Vehicles, Boats and Trailers: No trailer, trailer house, boat or recreational vehicle shall be parked on any Lot, except those boats, trailer or recreational vehicles which are stored within the standard garage provided with the dwelling; such storage is permitted only for such boats, trailers or recreational vehicles which can be stored within the original garage with the garage door closed.

Section 5. Occupants Bound: All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide sanctions against Owners shall also apply to all Occupants of any Lot even though Occupants are not specifically mentioned. Fines may be levied against Owners of Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 6. Animal and Pets: No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined to a leash.

Section 7. Nuisance: It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Development.

Section 8. Unsightly or Unkempt Conditions: The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Development.

Section 9. Lighting: Notwithstanding Article IV above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Architectural Committee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards of a Lot; providing such lighting does not create a nuisance for adjoining Lots; (c) illumination of model homes and entrance features constructed by the Declarant; and (d) other lighting originally installed by the Declarant. Plans for all other exterior lighting must be submitted and approved in accordance with Article IV, hereof.

Section 10 Drainage: Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Lot may obstruct or re-channel the drainage flows after the location and installation of drainage swales, storm sewers, or storm drains. Declarant reserves the right to prepare sloping banks, cut or fill, on a three (3) to one (1) slope on all streets and roads. Declarant hereby reserves a perpetual easement across the Development property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 11. Sight Distance at Intersections: All property located at street intersections shall be so landscaped as to permit legally sight across appropriate corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain at any corner where this would create a traffic or sight problem, in accordance with Lumpkin County ordinances and regulations.

Section 12. Clotheslines, Garbage cans, Woodpiles, Etc: All garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall regularly be moved from the Lot and shall not be allowed to accumulate thereon. Declarant, however, hereby expressly reserves the right to dump and bury rocks and trees on property within the Development as needed for efficient construction and to allow developers and builders within the Development to do so. No clotheslines shall be permitted on any Lot.

Section 13. Subdivision of Lot: No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Association. Declarant, however, hereby expressly reserves the right to replat any Lot (s) or other property in the Development. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 14. Guns: The use of firearms in the Development is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and firearms of all types.

Section 15. Solar Devices: No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed, or maintained upon any portion of the Development, including any Lot, without the prior written consent of the Architectural Committee.

Section 16. Fences: No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Development, including any Lot, without the prior written consent of the Architectural Committee. Any chain link fence must be no more than 40 feet in total length of all sides, must be within the minimum building line, and must be hidden from public view by landscaping. Under no circumstances shall any fence be placed, erected, allowed or maintained closer to any street than the front corners of the residence constructed on such Lot. The Architectural Committee may issue guidelines detailing acceptable fence styles or specifications.

Section 17. Detached Structures: No detached structures shall be placed, erected, allowed, or maintained upon any Lot without the prior written consent of the Architectural Committee.

Section 18. Entry features and Street Signs: Owners shall not alter, remove or add improvements to any entry features or street signs constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the Architectural Committee.

Section 19. Above Ground Pools: Above ground pools, other than children's pools not exceeding sixty-four (64) square feet, shall not be permitted in the Development without the approval from Architectural Control Committee.

Section 21. In Ground pools: In ground pools shall be permitted but design, construction and placement must be approved by the Architectural Control Committee.

Section 22. Basketball Hoops and Goals: Basketball hoops and goals shall not be attached to the exterior portion of any house, garage or other building structure constructed on a lot, or placed on any other portion of the lot except as provided below. Portable hoops and goals are allowed, but placement, construction and design of any hoop or goal must be approved by the Architectural Control Committee.

Section 23. Association's Responsibility: The association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair or, replacement, subject to any insurance then in effect, of all landscaping and improvements, if any, situated on the Common Property. The association shall maintain all entry features for the Development and street signs originally installed by the Declarant, if any. There is hereby reserved to the Association a blanket easement upon, across, over and under all property within the Development for access, ingress, and egress as necessary to permit the Association to perform such maintenance.

Section 24. Owner's Responsibility: Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Development-Wide Standard and this Declaration. If the Board of Directors of the Association determines that (a) any owner has failed or refused to discharge properly of any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder; or (b) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement, at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

ARTICLE IX INSURANCE AND CASUALTY LOSSES

Section 1. Insurance: The Association's Board of Directors or its duly authorized agent shall have the authority, but not the obligation, to obtain insurance for all insurable improvements located on the Common property or required to be maintained by the Association under Article BII, Section 1 hereof. This insurance shall cover (i) loss or damage by fire or other hazards including

extended coverage, vandalism, and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard, and (ii) comprehensive general liability insurance covering all of the Common Property. The Board shall also have the authority, but not the obligation to obtain director's and officer's liability insurance, said insurance to cover the members and officers of the Board of Directors; and the members of the Architectural committee as duly appointed under the provisions of Article VI, insuring the same against any negligence or nonfeasance. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

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

- (a) All policies shall be written with a company authorized to do business in Georgia.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participation in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the Insurance carried by the Association shall be primary.
- (d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Development is located.

Section 2. Damage and Destruction – Lots. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five(75) days, they shall be commenced within such periods and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XIII of this Declaration.

Section 3. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance for maintenance or the damaged or destroyed property.

Section 4 Additional insurance. In addition to coverage described hereinabove, the Association shall obtain such additional amount and types of insurance as may be required from time to time by either the Veterans Administration or the Federal Housing Administration, their successors and assigns, for similar type residential subdivision communities.

The Association shall have the authority, but not the obligation, to obtain and maintain a blanket fidelity bond for all officers, directors, and employees of the Association and all other persons who handle, or are responsible for, funds of or administered by the Association. If the Association engages a management agent who has responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or administering the funds of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the management agent at any time during the period of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Lots plus reserve funds. The bonds shall contain waivers by the issuer of the bonds of all defenses based upon the exclusions of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior notice to the Association.

ARTICLE XI MORTGAGEE PROVISIONS

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

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

- (a) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of a specified percentage of Mortgage Holders;
- (e) an annual financial statement, or audit if available, or the Association for the immediately preceding fiscal year, free of charge;
- (f) any proposed amendment of the Declaration effecting a change in (A) the boundaries of any Lot or the exclusive easement rights appertaining thereto; (B) the interests in the Common Property or the liability for common expenses appearance thereof; (C) the number of votes in the Association appertaining to any Lot; or (D) the purpose to which any Lot or Common Property are restricted; or
- (g) any proposed termination of administration of the Common Property pursuant to this Declaration;

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

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

Section 4. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provision 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.

Section 5. VA/HUD Approval: As long as there is a Class B Membership and so long as the project is approved by HUD for insuring any Mortgage in the Development (as determined by consulting the current list of approved subdivisions regularly published by HUD and furnished to Mortgage companies) of the VA for guaranteeing any Mortgage in the Development (as determined by telephone inquiry to VA), the following actions shall require the prior approval of the VA and/or HUD as applicable: annexation of additional property to any public entity; mergers and consolidations; dissolution of the Association; mortgaging or Common Property; and material amendment of the Declaration; Bylaws, or Articles or Incorporation.

Section 6. Common Property. To the extent permissible under the law of the state of Georgia, the following provisions shall apply:

- (a) any restoration or repair of the Common Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specification unless the approval of the Eligible Holders of first mortgages on Lots to which at least fifty-one (51%) percent of the votes of Lots subject to mortgages held by such Eligible Holders are allocated, is obtained.
- (b) Any Election to terminate the administration of the Common Property pursuant to this Declaration after substantial destruction or a substantial taking in condemnation of the Property must require the approval of the Eligible Holders of first mortgages on Lots to which at least fifty-one (51%) percent of the votes of Lots subject to mortgages held by Eligible Holders are allocated.

Section 7. Amendments. The following provisions do not apply to amendments to the constituent documents or termination of the Association pursuant to Section 6 hereof made as a result of destruction, damage, or condemnation, or to the addition of land pursuant

to any plan of expansion or phased development previously approved by the Department of Housing an Urban Development (“H.U.D.”) or the Veterans Administration (“V.A.”) to the extent such approval is required by H.U.D. or the V.A.:

- (i) The consent of Owners representing at least sixty-seven percent (67%) of the Class “A” votes and the Declarant, so long as it holds any land subject to this Declaration, and the approval of the Eligible Holders of first mortgages on Lots to which at least sixty-seven (67%) percent of the votes of Lots subject to a mortgage appertain, shall be required to terminate the administration of the Property subject to a mortgage appertain, shall be required to materially amend any provisions of this Declaration, the By-laws or the Articles of Incorporation to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following.
 - A. Voting;
 - B. Assessments, assessment liens or subordination of such liens;
 - C. Reserves for maintenance, repair and replacement of the Common Property;
 - D. Insurance or fidelity bonds;
 - E. Rights to use of the Common Property;
 - F. Responsibility for maintenance and repair of the several portions of the Property;
 - G. Expansion or contraction of the Property or the addition, annexation or withdrawal of land to or from the property;
 - H. Boundaries of any Lot;
 - I. Convertibility of Lots into Common Property or of Common Property into Lots;
 - J. Leasing of Lots;
 - K. Imposition of any right of first refusal or similar restriction on the right of a Lot;
 - L. Establishment of self-management by the Association where professional management, if any, has been employed; and
 - M. The approval of Eligible Holders of first mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to a mortgage appertain, shall be required to amend any provisions included in this Declaration, the By-laws or the articles of Incorporation which are for the express benefit of holders or insurers of first mortgages on Lot.

The provisions of this Article shall not be construed to reduce the percentage vote that must be obtained from mortgages of Lot Owners where a larger percentage vote is otherwise required by applicable law or in any other provision in the Declaration, the By-laws or the Articles of Incorporation for any of the actions contained in this Article.

Section 8. Special FHLMC Provisions. As long as required by the Federal Home Loan Mortgage Corporation (The Mortgage Corporation), the following provisions apply in addition to and not in lieu of the forgoing. Unless two-thirds (2/3) of the first mortgages or Owners other than the Declarant, give their consent, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting 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) other than personal property of the Association;
- (b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;
- (c) By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Property (the issuance and amendment of architectural standards, procedures, rules, and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection);
- (d) Fail to maintain insurance, as required by this Declaration; or
- (e) Use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property
- (f) Nothing contained in this Section 8 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 8.
- (g) First Mortgagees may, jointly or singly, pay taxes or other charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 9. Applicability of Article XI. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 10. 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 written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE XII EASEMENTS

Section 1 Easements for Utilities. There is hereby reserved to the Declarant its successors and assigns, for so long as the Declarant owns any Lot within the Development, and to the Association blanket easements upon, across, above and under all property within the Development for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Development or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant or Association might decide to have installed to serve the Development; and for slope control purposes, replanting, and maintenance of all entry features and retention ponds. It shall be expressly permissible for the Declarant, the Association or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 2 Easement for Association Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of the Development determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article VII. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owner's property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 3 Easement for Entry. In addition to the right of the board to exercise self help as provided in Article XII, hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Development for emergency, security, and safety reasons, which right may be exercised by the manager, and all policemen, fireman, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall include the right of the Board to enter to cure any condition which may increase the possibility of fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 4 Easements for Entry Features and Street Signs. There is hereby reserved to the Declarant and Association an easement over and upon each Lot for ingress, egress, installation construction, landscaping and maintenance of entry features and street signs for the Development. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to upgrade the land under and around the entry features.

ARTICLE XIII ENFORCEMENT

Section 1. 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 heirs, devisees, legal representatives, successors and assigns.

Section 2. Right of Abatement.

(a) Except where different notice provisions are provided in Articles VI and VIII, in the event of a violation or breach of any Restriction contained in the 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. 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 Articles Vi and VIII hereof means the right of the Association through its agents employees, to enter at all reasonable times upon any Lot of Structure as to which a violation, breach or other condition to 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 interest thereon at the lower of the highest rate permitted by law or twelve (12%) percent per annum to be binding personal obligation of such Owner enforceable at law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 4 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise of 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 Article V hereof, and (iii) any Prior Recorded First Mortgage on a Lot or Lots. Such lien shall not be affected by any sale or transfer of a Lot, Except that a sale or transfer of a Lot pursuant to a foreclosure of a Prior Recorded First Mortgage shall extinguish such lien.

Section 3. Specific Performance: Nothing contained in the 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 or, 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.

Section 4. Collection 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 of charge, plus and interest thereon and costs of collection, including reasonable attorney's fees.
- (b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, costs 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 Courthouse in Lumpkin County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four (4) weeks immediately preceding such sale (but without regard to number of days) in the paper in which the Sheriff's advertisements for Lumpkin 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 default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and its assigns, the agent and attorney-in-fact of each Owner hereby constitutes and appoints the Association and agrees that the recitals so to be made by the Association, or its assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, legal representatives, devisees, successors, and assigns of such Owner, and that the conveyance to be made by the Association or its 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 its assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost, and other charge due, together with all costs and expenses of sale and fifteen (15%) percent of the aggregate amount due for attorney's fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law and any Mortgagee of said Lot or Lots. 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.
- (c) No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the association, or from any action taken by the Association to comply with ay law or ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

Section 5. No Waiver: The failure of the Declarant, the Association, or the Owner of any Lot, his or its respective heirs, legal representatives, devisees, successors, and assigns to enforce and 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, or as to the same violation or breach by the Owner of any other Lot.

ARTICLE XIV DURATION AND AMENDMENT

Section 1. Duration: This Declaration and Restrictions contained herein shall run with and bind the Property for a period of twenty (20) years from and after the date when this Declaration is filed for record with the Clerk of the Superior Court of Lumpkin County, Georgia, periods of ten (10) years; provided, however, that after the end of the said twenty (20) year period and during any ten (10) year renewal period (but only during such renewal period), this Declaration and the Restrictions contained herein may be terminated by an instrument executed by the proper Association officers and recorded in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approving such termination which is approved by a two-thirds (2/3) vote of the Class A Members of the Association.

Section 2. Amendments by Declarant: During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing, filed and recorded in the Deed records of the Superior Court of Lumpkin County, Georgia, without the approval of any Member or Mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Property as set forth in this Declaration or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Members affected thereby, or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section 2 shall be certified by Declarant as having been duly approved by Declarant, and such members and Mortgagees, if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Article XIV, Section 2 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development. (i) if such amendment is necessary to bring any provision hereof or thereof into compliance with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, or Federal home Loan Mortgage Corporation, to enable such lender or purchaser to make a purchase mortgage loans on any Lot subject to this Declaration, (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

Section 3. Amendments by Association: Amendments to this Declaration, other than those authorized by Section 2 hereof, shall be proposed and adopted in the following manner:

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

(e) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such Amendment must be approved by member holding at least two thirds (2/3) of the total votes in the Association; provided, however, that (i) any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee and (ii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must be approved by Declarant.

(f) The agreement of the required percentage of the Owners and, where required, the Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the President and either a Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement

shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

ARTICLE XV ANNEXATION, WITHDRAWAL AND CONSTRUCTION AND SALE PERIOD

Section 1. Annexation of Property: Until December 31, 2006, any additional real property which is contiguous with any portion of the real property described in Exhibit "A" attached hereto may be annexed to the Property by the Declarant without the consent of the Class A Members. Provided, however, that all improvements on such additional real property shall be substantially complete before annexation. Such annexation shall be accomplished by filing in the Office of the Clerk of the Superior Court of Lumpkin County an approved subdivision plat describing the real property to be annexed to the Property and by including on such subdivision plat a statement that expressly sets forth the Declarant's intention to make such annexed real property subject to the provisions of this Declaration; or by filing an amendment to the Declaration which shall be executed by the Declarant and has been consented to by the owners of the real property to be annexed if any portion of such real property is owned by someone other than Declarant. After December 31, 2006, no real property may be annexed to the Property unless such annexation is approved by a two-thirds (2/3) vote of the Members of the Association.

Section 2. Withdrawal of Property: For so long as Declarant has authority to appoint and remove directors and officers of the Association, Declarant, without the consent of the Class A Members shall have the right to withdraw portions of the Property from the provisions of this Declaration if the withdrawn property has been subjected to the provisions of this Declaration in error, or if the withdrawal is required by any changes in the plan for the Development. Such withdrawal shall be accomplished by filing in the Office of the Clerk of the Superior Court of Lumpkin County an amendment to this Declaration which shall be executed by the Declarant and has been consented to by the Owners of the real property to be withdrawn if any portion of said real property is owned by someone other than Declarant.

Section 3. Construction and Sale Period: Notwithstanding any provisions contained in this Declaration, the By-Laws, Articles of Incorporation, use restrictions rules and regulations, Design Standards, and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration as provided herein terminates, it shall be expressly permissible for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Development as Declarant may deem necessary, such facilities and activities as may reasonably be required by the Declarant and such builder in the development, construction, and sales activities related to property subject to this Declaration, including, but not without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Development; the right to tie into any portion of the Development with Driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for doing so), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, cable television, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Development; the right to carry on sales and promotional activities in the Development; the right to maintain sales signs and project signs on individual Lots, within the right-of-way of any road and at the entrance(s) to the Development; and the right to construct and operate business offices, signs, construction trailers, material storage areas, model residences, off street parking areas, and sales offices. Declarant and any such builder or developer may use residences or offices owned or leased by Declarant or such builder or developer as model residences and sales offices. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the person causing any damage at its sole expense.

ARTICLE XVI GENERAL PROVISIONS

Section 1. Duration: The Covenants and Restrictions of this Declaration shall run with and bind the land, shall be and remain in effect, and shall inure to the benefit of and be enforceable by the Association or the owners of any of the Restricted Property, their respective legal representatives, as successors and assigns, for a term of 20 years from the day and year first above written. Said Covenants and Restrictions may renewed and extended, in whole or in part, beyond said 20-year period for successive periods not to exceed 20 years each if an agreement for renewal and extension is signed by members of the Association then entitled to cast at least fifty percent (50%) of the votes of the Association and has been filed for record in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, at least thirty (30) days prior to the effective date of such renewal and extension; provided, however, that each such

agreement shall specify which of the Covenants and Restrictions are so renewed and extended and the term for which they are renewed and extended. Every purchaser or grantee of any interest in any of the restricted property by acceptance of a deed or other conveyance thereof, thereby agrees that the Covenants and Restrictions of this Declaration may be renewed and extended as provided herein.

Section 2. Notices: Any notice required or permitted to be sent to any member pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the member or owner to whom it is intended at his last known place of residence, or to such other address as may be furnished to the secretary of the Association, and such service shall be deemed sufficient. The date of service shall be the date of mailing.

Section 3. Severability: Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or any property shall be prohibited or held invalid, such prohibition or invalidity shall not effect any other provision or the application of any provision which can be given effect without the invalid revision or application, and to this end, the provisions of this Declaration are declared to be severable.

Section 4. Amendment: The Covenants and Restrictions of this Declaration may be amended at any time during the first three (3) years following the day and year first above written by an instrument signed by the Declarant or by members of the Association then entitled to cast at least fifty percent (50%) of the votes of each class of members of the Association and, thereafter, by an instrument signed by members of the Association then entitled to cast at least seventy five percent (75%) of the votes of the Association; provided, however, that any such amendment of these Covenants and Restrictions including the zoning ordinances applicable to the Restricted Property and any Covenants affecting the Restricted Property recorded in Lumpkin County, Georgia Records, and shall not become effective until the instrument evidencing such change has been duly filed for record in the Office of the Clerk of the Superior Court of Lumpkin County, Georgia, and unless written notice of the proposed amendment is sent to every member at least fifteen (15) days in advance of any action taken. Every purchaser or grantee of any interest in the Restricted Property, by acceptance of a deed or other conveyance thereof, thereby agrees that the Covenants and Restrictions of this Declaration may be amended as provided herein.

ARTICLE XVI GENERAL PROVISIONS

Section 1. Partition: The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Development and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, not necessarily limited to, the Lots located within the development.

Section 2. Gender and Grammar: The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 3. Severability: Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Declaration are declared to be severable.

Section 4. Captions: The captions of each Article and Section hereof, as the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article to which they refer.

Section 5. Preparer: This Declaration was prepared by Michael D. Barber, 1842 Independence Square, Atlanta, Georgia 30338.

Section 6. Conveyance of Common Property by Declarant to Association; Assignment of Contracts: The Declarant may transfer or convey to the Association any personal property and any improved or unimproved property, leasehold, easement, or other property interest. 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 or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. The Association shall also accept assignment of any contract entered into by the Declarant for the benefit of the Association or the Owners.

Section 7. Perpetuities: If any of the covenants, conditions or restriction or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 8. Indemnification: In accordance with the Georgia Nonprofit Corporation Code and the full extent allowed, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of Association), reason of the fact that such Person is or was serving as a member or officer of the Board of Directors or Architectural Committee of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding. If such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

Section 9. Books and Records:

- (a) **Inspection by Members and Mortgagees:** This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.
- (b) **Rules for Inspection:** The Board shall establish reasonable rules with respect to:
- (i) notice to be given to the custodian of record
 - (ii) hours and days of the week when such an inspection may be made;
 - (iii) payment of the cost of reproducing copies of the documents.
- (c) **Inspection by Directors:** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association

Section 10. Financial Statements: Financial Statements for the Association shall be compiled annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first mortgage and upon payment of all costs associated therewith, such holder shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

Section 11. Notice of Sale or Lease: In the event the Owner sells or leases his or her Lot, the Owner shall have give to the Association, in writing, the name of the Purchaser or lessee of the Lot and such other information as the Board may reasonable require.

Section 12. Agreements: All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development. All such agreements and determinations shall be subject to the prior approval of Declarant, so long as the Declarant owns any property primarily for development and/or sale in the Development.

Section 13. Variances: Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Development.

Section 14. Litigation: No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This section shall not apply, however, to (a) action brought by the Association to enforce the provisions of the Declaration (including, without limitation the foreclosure of liens, (b) the

imposition and collection of assessments as provided in Article V hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This section shall not be amended unless such amendment is made by the percentage votes, and pursuant to the same procedures, necessary to institute proceeding as provided above.

Section 15. Implied rights: The Association may exercise any rights or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonable necessary to effectuate any such right or privilege.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed by its duly authorized officers and the appropriate corporate seals affixed hereto, the day and year first above written.

BLACKBURN FOREST DEVELOPMENT, L.L.C.

By: _____

EDWARD C. PARVIN

Its: **MANAGER**

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 149 AND 150 of the 13TH District of LUMPKIN County, Georgia being 31 LOTS and a Park Area, as shown on plat of survey by John T. Gaston, RLS for Ed Parvin, dated July 19, 2002 (revised September 23, 2002) and recorded at Cabinet , Slide , Plat , Lumpkin County, Georgia records, which plat and legal description recorded thereon are incorporated herein by reference.

EXHIBIT “B”

**BY-LAWS
OF
BLACKBURN FOREST SUBDIVISION HOMEOWNERS ASSOCIATION**

ARTICLE I – OFFICES

The office of the Corporation shall be located at 4974 Haralson Way SW, Lilburn, Georgia 30047. The Corporation may also maintain offices at such other places within or without the United States as the Board of Directors may, from time to time, determine.

ARTICLE II – MEETING OF SHAREHOLDERS

Section 1 – Annual Meetings:

The annual meeting of the shareholders of the Corporation shall be held within five months after the close of the fiscal year of the Corporation, for the purpose of electing directors, and transacting such other business as may properly come before the meeting.

Section 2 – Special Meetings:

Special meetings of the shareholders may be called at any time by the Board of Directors or by the President, and shall be called by the President or the Secretary at the written request of the shareholders of ten percent (10%) of the shares then outstanding and entitled to vote thereat, or as otherwise required under the provision of the Laws of the State of Georgia.

Section 3 – Place of Meetings:

All meetings of the shareholders shall be held at the principal office of the Corporation or at such other places as shall be designated in the notices or waivers of notice of such meetings.

Section 4 – Notice of Meetings:

- (a) Written notice of each meeting of shareholders, whether annual or special, stating the time when and place where it is to be held, shall be served either personally or by mail, not less than ten or more than fifty days before the meeting, upon each shareholder of record entitled to vote at such a meeting, and to any other shareholder to whom the giving of notice may be required by law. Notice of a special meeting shall also state the purpose or purposes for which the meeting is called, and shall indicate that it is being issued by, or at the direction of, the person or persons calling the meeting. If, at any meeting, action is proposed to be taken that would, if taken, entitle shareholders to receive payment for their shares pursuant to the Business Corporation act, the notice of such meeting shall include a statement of that purpose and to that effect. If mailed, such notice shall be directed to each such shareholders at his address, as it appears on the records of the shareholders of the Corporation, unless he shall have previously filed with the Secretary of the Corporation a written request that notices intended for him be mailed to some other address, in which case, it shall be mailed to the address designated in such request.
- (b) Notice of any meeting need not be given to any person who may become a shareholder of record after the mailing of such notice and prior to the meeting, or to any shareholder who attends such meeting, in

person or by proxy, or to any adjourned meeting of shareholders need not be given unless otherwise required by statute.

Section 5 – Quorum:

- (a) Except as otherwise provided herein, or by statute, or in the Articles of Incorporation (such articles and any amendments thereof being hereinafter collectively referred to as the “Articles of Incorporation”), at all meeting of shareholders of the Corporation, the presence at the commencement of such meetings in person or by proxy of shareholders holding of record a majority of outstanding and entitled to vote, shall be necessary and sufficient to constitute a quorum for the transaction of any business. The withdrawal of any shareholder after the commencement of a meeting shall have no effect on the existence of a quorum, after a quorum has been established at such meeting.
- (b) Despite the absence of a quorum at any annual or special meeting of shareholders, the shareholders by a majority of the votes cast by the holders of shares entitled to vote thereon, may adjourn the meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called if a quorum had been present.

Section 6 – Voting:

- (a) Except as otherwise provided by statute or by the Articles of Incorporation, any corporate action, other than the election of directors to be taken by vote of the shareholders, shall be authorized by a majority of the votes cast at a meeting of shareholders by the holders of the shares entitled to vote thereon.
- (b) Except as otherwise provided by statute or by the Articles of Incorporation, at each meeting of shareholders, each holder of record of shares of the Corporation entitled to vote thereat, shall be entitled to one vote for each share registered in his name on the books of Corporation.
- (c) Each shareholder entitled to vote or to express consent or dissent without a meeting, may do so by proxy; provided, however, that the instrument authorizing such proxy to act shall have been executed in writing by the shareholder himself, or by his attorney-in-fact thereunto duly authorized in writing. No proxy shall be valid after the expiration of eleven months from the date of its execution, unless the persons executing it shall have specified therein the length of time it is to continue in force. Such instrument shall be exhibited to the Secretary at the meeting and shall be filed with the records of Corporation.
- (d) Any resolution in writing, signed by all of the shareholders entitled to vote thereon, shall be and constitute action by such shareholders to the effect therein expressed, with the same force and effect as if the same had been duly passed by unanimous vote at a duly called meeting of shareholders and such resolution so signed shall be inserted in the Minute Book of the Corporation under its proper date.

ARTICLE III – BOARD OF DIRECTORS

Section 1 – Number, Election and Term of Office:

- (a) The number of the directors of the Corporation shall be one (1), unless and until otherwise determined by vote of a majority of the entire Board of Directors.

- (b) Except as may otherwise be provided herein or in the Articles of Incorporation, the members of the Board of Directors of the Corporation, who need not be shareholders, shall be elected by a majority of the votes cast at a meeting of shareholders, and the holders of shares entitled to vote in the election.
- (c) Each director shall hold office until the annual meeting of the shareholders next succeeding his election, and until his successor is elected and qualified, or until his prior death, resignation or removal.

Section 2 – Duties and Powers:

The Board of Directors shall be responsible for the control and management of the affairs, property and interests of the Corporation, and may exercise all powers of the Corporation, except as are in the Articles of Incorporation or by statute expressly conferred upon or reserved to the shareholders.

Section 3 – Annual and Regular Meeting; Notice:

- (a) A regular annual meeting of the Board of Directors shall be held immediately following the annual meeting of shareholders at the place of such annual meeting of shareholders.
- (b) The Board of Directors, from time to time, may provide by resolution for the holding of other regular meeting of the Board of Directors and may fix the time and place thereof.
- (c) Notice of any regular meeting of the Board of Directors shall not be required to be given and, if given, need not specify the purpose of the meeting; provided, however, that in case the Board of Directors shall fix or change the time or place of any regular meeting, notice of such action shall be given to each director who shall not have been present at the meeting at which such action was taken within the time limited, and in the manner set forth in paragraph (b) of Section 4 of this Article III, with respect to special meetings, unless such notice shall be waived in the manner set forth in paragraph (c) of such Section 4.

Section 4 – Special Meetings; Notice:

- (a) Special meetings of the Board of Directors shall be held whenever called by the President or by one of the directors, at such time and place as may be specified in the respective notices or waivers of notice thereof.
- (b) Notice of special meetings shall be mailed directly to each director, addressed to him at his residence or usual place of business, at least two (2) days before the day on which the meeting is to be held, or shall be sent to him at such place by telegram, radio or cable or shall be delivered to him personally or given to him orally, not later than the day before the day on which the meeting is to be held. A notice, or waiver of notice, except as required by Section 8 of this Article III, need not specify the purpose of the meeting.
- (c) Notice of any special meeting shall not be required to be given to any director who shall attend such meeting without protesting prior thereto or at its commencement the lack of notice to him, or who submits a signed waiver of notice, whether before or after the meeting. Notice of any adjourned meeting shall not be required to be given.

Section 5 – Chairman:

At all meetings of the Board of Directors the President of the Corporation shall act as the Chairman of the Board. The President/Chairman shall preside and in his absence, a Chairman chosen by the Directors shall preside.

Section 6 – Quorum and Adjournments:

- (a) At all meetings of the Board of Directors, the presence of a majority of the entire Board shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by law, by the Articles of Incorporation, or by these By-Laws.
- (b) A majority of the directors present at the time and place of any regular or special meeting, although less than a quorum may adjourn from the same from time to time without notice, until a quorum shall be present.

Section 7 – Manner of Acting:

- (a) At all meetings of the Board of Directors, each director present shall have one vote irrespective of the number of shares of stock, if any, which he may hold.
- (b) Except as otherwise provided by statute, by the Articles of Incorporation, or these By-Laws, the action of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. Any action authorized in writing, by all of the directors entitled to vote thereon filed with the minutes of the Corporation shall be the act of the Board of Directors with the same force and effect as if the same had been passed by unanimous vote at a duly called meeting of the Board.

Section 8 – Vacancies:

Any vacancy in the Board of Directors occurring by reason of an increase in the number of Directors, or by reason of death resignation, disqualification, removal (unless a vacancy created by the removal of a director, or otherwise shall be filled for the unexpired portion of the term by a majority vote of the remaining Directors, though less than a quorum, at any regular meeting or special meeting of the Board of Directors called for that purpose.

Section 9 – Resignation:

Any director may resign at any time by giving written notice to the Board of Directors, the President of the Secretary of the Corporation. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or such officer, and the acceptance of such resignation shall not be necessary to make it effective.

Section 10 – Removal:

Any director may be removed with or without cause at any time by the shareholders, at a special meeting of the shareholders called for that purpose, and may be removed for cause by action of the Board.

Section 11 – Salary:

No stated salary shall be paid to directors, as such, for their services, but by resolution the Board of Directors a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board; provided, however, that nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 12 – Contracts:

- (a) No contract or other transaction between this Corporation and any other corporation shall be impaired, affected, or invalidated nor shall any director be liable in any way by reason of the fact that any one or more of the directors of this Corporation is or are interested in, or is a director or officer, or are directors or officers of such other Corporation, provided that such facts are disclosed or made known to the Board of Directors.
- (b) Any director, personally and individually, may be a party to or may be interested in any contract or transaction of this Corporation, and no director shall be liable in any way by reason of such interest, provided that the fact of such interest be disclosed or made known to the Board of Directors, and provided that the Board of Directors shall authorize, approve or ratify such contract or transaction by vote (not counting the vote of any presence of any such director) of a majority of quorum, notwithstanding the presence of any such director at the meeting at which such action is taken. Such director or directors may be counted in determining the presence of a quorum at such meeting. This section shall not be construed to impair or invalidate or in any way affect any contract or other transaction which would otherwise be valid under contract or other transaction which would otherwise be valid under the law (common, statutory or otherwise) applicable thereto.

Section 13 – Committees:

The Board of Directors, by resolution adopted by a majority of the entire Board, may from time to time designate from among its members an executive committee and such other committees, and alternate members thereof, as they deem desirable, each consisting of three or more members, with such powers and authority (to the extent permitted by law) as may be provided in such resolution. Each such committee shall serve at the pleasure of the Board.

ARTICLE IV - OFFICERS

Section 1 – Number, Qualification, Election and Term of Office:

- (a) The officers of the Corporation shall consist of a President/Treasurer/Secretary and such officers as the Board of Directors may from time to time deem advisable. Any officer may be, but is not required to be, a director of the Corporation.
- (b) The officers of the Corporation shall be elected by the Board of Directors at the regular annual meeting of the Board following the annual meeting of the shareholders.
- (c) Each officer shall hold office until the annual meeting of the Board of Directors next succeeding his election, and until his successor shall have been elected and qualified, or until his death, resignation or removal.

Section 2 – Resignation:

Any officer may resign at any time by giving written notice of such resignation to the board of Directors, or to the president or the Secretary of the Corporation. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or by such officer, and the acceptance of such resignation shall not be necessary to make it effective.

Section 3 - Removal:

Any officer may be removed, either with or without cause, and a successor elected by the Board at any time.

Section 4 – Vacancies:

A vacancy in any office by reason of death, resignation, inability to act, disqualification or any other cause, may at any time be filled for the unexpired portion of the term by the Board of Directors.

Section 5 – Duties of Officers:

Officers of the Corporation shall, unless otherwise provided by the Board of Directors, each have such powers and duties as generally pertain to their respective offices as well as such powers and duties as may be set forth in these By-Laws, or may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Corporation.

ARTICLE V – SHARES OF STOCK

Section 1 – Certificates of Stock:

- (a) The certificates representing shares of the Corporation shall be in such form as shall be adopted by the Board of Directors, and shall be numbered and registered in the order issued. They shall bear the holder's name and the number of shares, and shall be signed by (i) the President/Secretary, and may bear the corporate seal.
- (b) No certificate representing shares shall be issued until the full amount of consideration therefor has been paid, except as otherwise permitted by law.

Section 2 – Lost or Destroyed Certificates:

The holder of any certificate representing shares or the Corporation shall immediately notify the corporation of any loss or destruction of the certificate representing the same. The corporation may issue a new certificate in the place of any certificate theretofore issued by it, alleged to have been lost or destroyed. On production of such evidence of loss or destruction as the Board of Directors in its discretion may require, the Board of Directors may, in its discretion, require the owner of the lost or destroyed certificate, or his legal representatives, to give the Corporation a bond in such sum as the Board may direct, and with such surety or sureties as may be satisfactory to the Board, to damage it may suffer on account of the issuance of the new certificate. A new certificate may be issued without requiring any such evidence or bond when, in the judgment of the Board of Directors, it is proper to do so.

Section 3 – Transfers of Shares:

- (a) Transfers of shares of the Corporation shall be made on the share records of the Corporation only by the holder of record thereof, in person or by his duly authorized attorney, upon surrender for cancellation of the certificate or certificates representing such shares, with an assignment or power of transfer endorsed thereon or delivered therewith, duly executed, with such proof of the authenticity of the signature and of authority to transfer and of payment of transfer taxes as the Corporation or its agents may require.
- (b) The Corporation shall be entitled to treat the holder of record of any share or shares as the absolute owner thereof for all purposes and, accordingly, shall not be bound to recognize any legal, equitable or other claim to, or interest in, such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by law.

Section 4 – Record Date:

In lieu of closing the share records of the Corporation, the Board of Directors may fix, in advance, a date not exceeding fifty days, nor less than ten days, as the record date for the determination of shareholders entitled to receive notice of, or to vote at, any meeting of shareholders, or to consent to any proposal without a meeting, or for the purpose of determining shareholders entitled to receive payment of any dividends, or allotment of any rights, or for the purpose of any other action. If no record date is fixed, the record date for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders shall be at the close of business on the day next preceding the day on which notice is given, or, if no notice is given, the day on which the meeting is held; the record date for determining shareholders for any other purpose shall be at the close of business on the day on which the resolution of the directors relating thereto is adopted. When a determination of shareholders of record entitled to notice of or to vote at any meeting of shareholders has been made as provided for herein, such determination shall apply to any adjournment thereof, unless the directors fix a new record date for the adjourned meeting.

ARTICLE VI – DIVIDENDS

Subject to applicable law, dividends may be declared and paid out of any funds available therefore, as often, in such amounts, and at such time or times as the Board of Directors may determine.

ARTICLE VII – FISCAL YEAR

The fiscal year of the Corporation shall be fixed by the Board of Directors from time to time, subject to applicable law.

ARTICLE VIII – CORPORATE SEAL

The corporate seal, if any, shall be in such form as shall be approved from time to time by the Board of Directors.

ARTICLE IX – AMENDMENTS

Section 1 – By Shareholders:

All by-laws of the Corporation shall be subject to alteration or repeal, and new by-laws may be made, by a majority vote of the shareholders at the time entitled to vote in the election of the directors.

Section 2 – By Directors:

The Board of Directors shall have power to make, adopt, alter, amend and repeal from time to time, by-laws of the Corporation; provided, however, that the shareholders entitled to vote with respect thereto as in the Article IX above-provided may alter, amend or repeal by-laws made by the Board of Directors, except the Board of Directors shall have no power to change the quorum for meetings of shareholders or of the Board of Directors, or to change any provisions of the by-laws with respect to the removal of directors or the filling of vacancies in the Board resulting from the removal by the shareholders. If any by-law regulating an impending election of directors is adopted, amended or repealed by the Board, there shall be set forth in notice of the next meeting of shareholders for the election of directors, the by-law so adopted, amended, or repealed, together with a concise statement of the change made.

The undersigned Incorporated certifies the foregoing by-laws have been adopted as the first by-laws of the Corporation, in accordance with the requirements of Georgia corporate law.

Date:

Edward C. Parvin, Manager