

FILED IN OFFICE  
HART COUNTY

2006 AUG 10 PM 2:47

*[Signature]*

563 223  
8-10-2006  
Hart County, Georgia  
Real Estate Transfer Tax  
Paid \$ 450.00  
Date 8-10-2006  
V.E. "EM" HOLLAND, III, Clerk

After Recording, copies to Todd C. Tomason, P. C., Attorney at Law, P. O. Box 473, Hiram, GA 30643 (766) 375-3173

**WARRANTY DEED  
(WITH RIGHT OF SURVIVORSHIP)  
GEORGIA, HART COUNTY**

THIS INDENTURE, made this 8th day of August in the Year of Our Lord Two Thousand Six between Sterling Manor Development, Inc., a Georgia Corporation, as party of the First Part, and Charles T. Lunn and Kathryn Lunn, as parties of the Second Part.

WITNESSETH: that the said party of the First Part, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid, at and before the sealing and delivery of these presents does grant, bargain, sell and convey unto the said parties of the Second Part as joint tenants with right of survivorship, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following property:

All that lot or parcel of land, situate, lying and being in the 1119th District, G.M., Hart County, Georgia, containing 0.776 of an acre, more or less, and being known and designated as Lot Four (4) of Yacht Club Pointe on a Plat entitled "Survey for: Yacht Club Pointe" by Bauknight & Associates, Inc., Surveyors, dated March 30, 2006, recorded at Plat Book 23, Page 239, in the Office of the Clerk of Superior Court of Hart County, Georgia, which said plat is hereby incorporated into this description by reference and made a part hereof, and being a portion of the property conveyed to Good Hart Investments, LLC by Douglas L. Wilkerson and William Stacey Britt by Warranty Deed dated December 13, 2005, recorded at Deed Book 541, Page 120, in said Clerk's Office.

Also conveyed herewith is a non-exclusive, perpetual easement for ingress and egress over and across the subdivision road shown as: "proposed 60' R/W Road" on said Plat. The purpose of this easement is to provide vehicular and pedestrian traffic from Yacht Club Road to the property conveyed herein.

Said property is conveyed subject to covenants, conditions, restrictions and easements set forth in a document entitled: "Declaration of Covenants, Conditions, Restrictions and Easements for Yacht Club Pointe" dated April 20, 2006, recorded at Deed Book 553, Pages 1-36, in the Office of the Clerk of Superior Court of Hart County, Georgia.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances, thereof, to the same being, belonging, or in anywise appertaining to the only proper use, benefit and behoof of the said parties of the Second Part, as joint tenants with right of survivorship, for and during their joint lives and, upon the death of either of them, then to the survivor of them in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor.

AND THE SAID party of the First Part, its heirs, executors and administrators, will warrant and forever defend the right and title to the above described property, unto the said parties of the Second Part, as hereinabove provided, against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the First Part has hereunto set its hand and seal, the day and year above written.

Witness sealed and delivered in the presence of:

*[Signature]*  
Witness  
*[Signature]*  
Notary Public

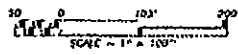
Sterling Manor Development, Inc.  
*[Signature]* (SEAL)  
By: Scott Adams, CEO



223

CALLS ALONG C/L OF YACHT CLUB ROAD		
COURSE	BEARING	DISTANCE
L1	N 89°28'33"W	49.36'
L2	N 88°56'35"W	50.20'
L3	N 88°56'35"W	60.00'
L4	N 88°56'35"W	2.33'
L5	N 88°56'35"W	237.33'
L6	N 89°28'33"W	69.00'

CALLS ALONG PROPOSED ROAD		
COURSE	BEARING	DISTANCE
L7	N 89°01'25"E	74.40'
L8	N 89°01'25"E	18.00'
L9	N 89°01'25"E	32.33'
L10	N 89°01'25"E	8.00'
L11	N 89°01'25"E	31.70'
L12	N 89°01'25"E	13.60'
L13	N 89°01'25"E	112.16'



**CURVES ALONG PROPOSED ROAD**

CURVE	POINTS	ANGLE	LENGTH	CHORD	CHORD BEARING
C1	118.00°	62.16°	173.18'	168.24'	N 52°17'45"E
C2	60.00°	16.97°	30.18'	27.33'	N 58°12'10"E
C3	78.00°	29.56°	54.18'	51.33'	N 39°12'12"E
C4	138.00°	28.82°	54.78'	53.52'	N 60°17'58"E
C5	22.00°	15.20°	30.00'	27.80'	N 89°02'00"E
C6	78.00°	23.37°	40.00'	37.20'	S 81°07'30"E
C7	138.00°	13.78°	150.15'	143.11'	N 18°07'47"W
C8	50.00°	28.28°	61.44'	49.20'	S 50°17'45"W

**CALLS ALONG INTERIOR LINES**

COURSE	BEARING	DISTANCE
I1	S 03°00'00"E	1.52'
I2	S 87°11'00"W	16.74'
I3	S 01°46'00"W	81.03'
I4	N 77°05'55"W	91.31'

HART INVESTMENTS, INC.  
64 GLOB ST.  
NATHANVILLE, GA 30657  
Approved By: *[Signature]*  
4-5-06

4 47°18'30"W 458.83'  
TO A P.M. 1/8 IN. 7'  
THE C/L OF CO. RD. #324  
8472 WITH CO. RD. #324

RECORDED  
BOOK 24 PAGE 277  
FILED IN 1343  
1-27-2006  
NATHANVILLE, GA

Carroll L. Linder  
Nathanville, GA

APPROVED IN ACCORDANCE WITH THE  
SAVO DEVELOPMENT STANDARDS OF LAST COUNTY  
HART COUNTY BOARD OF COMMISSIONERS  
DATE: 4/11/06 BY: H.C.O.C.  
New Road to be a private - not  
county road.  
Developed By: **GOOD HART INVESTMENTS, INC.**

- LLSDP =
- Q = POINT ONLY
- O = OPEN END SET
- B = BORN FOR LINDS
- RS = 1/2" SLASH SET
- SP = PIN FOR LINDS
- RP = ALUM LINDS
- CD = OPEN TOP PVC LIND
- OT = OPEN TOP PVC LIND
- CU = CONCRETE CURBMENT TPO
- W = WHITE SIGN FOUND
- WH = YELLOW WHITE SIGN
- FS = PIN NAIL SET
- FP = P.C. NAIL FOUND
- OS = ORANGE
- E = EXISTING LINE
- L = LINDS/PIPE
- W-CP = CONCRETE PAVEMENT
- N.B. = RIGHT-OF-WAY
- R.R. = RAILROAD CROSSING

- NOTES:
- 1) THERE IS AN IPE (HIGH END SET) AS PER COUNTY LINDS CRUISE MOULD.
  - 2) SETBACKS WILL BE PROVIDED OF COURSE PER SEC. 15.05.
  - 3) ALL LINES WILL BE PROVIDED BY AN INTERMEDIATE AUTHOR OFFICE.
- THE FIELD SURVEY WAS CONDUCTED FOR THE COUNTY HAS A 10% SLOPE SET FOR THE STATE. THE FIELD DATA WHICH THIS PLAN IS BASED UPON IS A CLOSE APPROXIMATION OF THE FIELD DATA. FIELD AND AN ANGULAR ERROR OF ... SEC. PER ANGLE POINT AND ARE ADJUSTED USING THE ... METHOD. THIS PLAN HAS BEEN CALCULATED TO 1/100000 AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN ... FEET.
- I HEREBY CERTIFY THAT IN MY OPINION THIS IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE CUSTOMS, STANDARDS AND REGULATIONS OF THE LAW.

**YACHT CLUB POINT**

OWNER: HART      OWNER: 1118      STATE: GEORGIA

DATE: MARCH 10, 2006      SCALE: 1" = 100'      PARTY CHIEF: JWP

PREPARED BY: DAURNIGHT & ASSOCIATES, INC.  
W. SLAVE BAURNIGHT      MARION P. BLUMBERG  
GEORGIA PLS # 2231      GEORGIA PLS # 664

SOUTH CAROLINA PLS # 2231  
5378 DOG CREEK, CHARLOTTE, NC 28213  
704-488-2510      704-488-0232  
4411 7TH ST.      LANS-158-5518

APPROVED BY: WSB  
TRD FILE: 02031  
HT FILE: 02031E

LOCATION MAP

- NOTES:
- 1) SURVEY IS SAID COPY OF PARTIAL ORIGINAL AND SEPARATE OF SURVEY.
  - 2) SURVEYOR HAS MADE THE NECESSARY SEARCH FOR RECORDS OF RECORDS CONCERNING THE PRESENTED COVENANTS, EASEMENTS, RIGHTS AND INTERESTS IN THE LAND AND HAS FOUND NO RECORDS OF RECORDS CONCERNING THE PRESENTED COVENANTS, EASEMENTS, RIGHTS AND INTERESTS IN THE LAND.
  - 3) THIS SURVEY IS SUBJECT TO ANY LAND & EASEMENTS, EASEMENTS, EASEMENTS & RIGHTS OF ANY RECORD.
  - 4) THIS PROPERTY DOES NOT LIE IN A FLOOD HAZARD ZONE, FLOODPLAIN, FEMA, MAP COMMUNITY FLOOD #130107 ZONE A.
  - 5) TOTAL AREA = 0.729 ACRES



FILED BY OFFICE  
HART COUNTY COURT

2005 APR 28 AM 10:09

*Cassidy Court*  
DEPUTY CLERK

RECORDED  
BOOK 553 PAGE 1-36  
DATE 4-28-06  
W.E. "BIP" HOLLAND, III, Clerk

DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR  
YACHT CLUB POINTE

Prepared by:  
Reginald A. Hudspeth, LLC  
6340 Sugarloaf Parkway, Suite 150,  
Duluth, Georgia 30097  
Joseph G. Wilburn, Esq  
770 925-1400

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
YACHT CLUB POINTE

THIS DECLARATION is made on the date set forth below by Sterling Manor Development, Inc. ("Declarant"), with the consent of Good Hart Investments, LLC, a Georgia limited liability company

WITNESSETH.

WHEREAS, Declarant owns 6.729 acres more or less of land ("Land") lying in GMD 1119, Hart County, Georgia being bounded n/f, as follows: s/w by centerline of Yacht Club Rd (C.R. # 324), n/w by 6.351 acres n/f Sterling Manor Development and on n/w and n/e by property of USA (Lake Hartwell), s/e by property n/f Marlene B Heaton Jarrett, which Land is more particularly shown per survey dated 3/14/2002 by Bauknight & Associates, Inc., bearing seal of W. State Bauknight GRLS No. 2534, recorded 12/13/2005 in Plat Book 2J Page 189, Hart County, Georgia Records, which is referred to and made a part of this description.

WHEREAS, Declarant desires to subject the Land to the provisions of this Declaration further to its undertaking the development of a fee simple residential community with easements and common elements for the use and benefit of residents and covenants and restrictions protecting the value and desirability of such Land

NOW, THEREFORE, Declarant does hereby submit the land to the provisions of this Declaration, which shall be held, conveyed, used, occupied or mortgaged subject to the terms and conditions hereof that shall be appurtenant to and run with the title to the land to the benefit and burden of all interest holders thereof.

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

ARTICLE I  
Definitions:

The terms used in this Declaration are intended to have their normal, commonly understood definitions, unless otherwise specified. To minimize repetition, some terms are capitalized to indicate that they have special definitions. Whenever used in their capitalized form, those terms have the following meanings:

Architectural Control Committee or ACC: The committee that may be appointed by the Declarant or Board and serving at their pleasure to exercise the architectural review powers set forth in this Declaration.

Area of Common Responsibility: The Common Property, together with those areas, if any, which by the terms of this Declaration or by agreement with any other Person become the Association's responsibility to maintain.

Articles or Articles of Incorporation: The Articles of Incorporation of Yacht Club Pointe Homeowners Association, Inc. which have been filed with the Secretary of State of the State of Georgia.

Assessments: Shall have the meaning specified in Article V hereof that shall or may be levied by the Association against the Lots for the purpose of raising the funds necessary to pay the expenses of the Association.

Association: The Yacht Club Pointe Homeowners Association, Inc., its successors and assigns.

Board or Board of Directors: The body responsible for management and operation of the Association.

Builder: Any Person engaged principally in the business of constructing for sale to homeowners residential dwellings to whom the Declarant sells or has sold one (1) or more Lots for the purpose of constructing thereon a residential dwelling.

Bylaws: The Bylaws of Yacht Club Pointe Association, Inc. attached to this Declaration as Exhibit "B" and made a part of this Declaration.

Common Expense: Any expense incurred or anticipated to be incurred by the Association for the general

benefit of the Community, including, but not limited to, any expense incurred for maintaining, repairing, replacing, and operating the Common Property.

**Common Property or Commons:** Any and all real property owned by the Association for the common use and enjoyment of the Owners.

**Community or The Reserve at Lakeside or Land:** All that real property as described in Exhibit "A", attached hereto and incorporated herein by this reference, together with interests appurtenant thereto and additions to such property as may hereafter be made by an amended or supplemental declaration.

**Community-Wide Standard:** The standard of conduct, maintenance, or other activity generally prevailing in the Community as may be more specifically determined by the Board or ACC that shall not be inconsistent with the Community-Wide Standard originally established by the Declarant.

**Declarant:** Sterling Manor Development, Inc., a Georgia corporation, or its successors-in-title who shall (a) acquire, from a predecessor Declarant, for the purpose of development or sale, all or any portion of the Land, and (b) be designated as the Declarant in a deed of conveyance to a successor in title or by written assignment of Declarant rights in an instrument recorded in the Hart County, Georgia records.

In all events there shall only be one Declarant at any one time; in no event shall more than one Person have the right to exercise the power and authority of the Declarant at any given time.

**Declaration:** This Declaration and any subsequent amendments thereto.

**Developer Control Period:** The period of time during which the Declarant, by virtue of its Class "B" membership, is entitled to appoint a majority of the members of the Board of Directors pursuant to the By-Laws.

**Effective Date:** The date that this Declaration is recorded in the land records of Hart County, Georgia.

**Governing Documents:** The Articles of Incorporation, the By-Laws, this Declaration, any applicable Supplemental Declaration, the Architectural Guidelines, the Restrictions and Rules, and Board resolutions, or any of them, as each may be amended from time to time.

**Lot:** Any plot of land shown as such upon any recorded subdivision plat of the Land with the exception of the Common Property and any delineated public streets.

**Majority:** The number of votes of an Owner or other Person, as the context requires, totaling more than fifty (50%) of the total number eligible to vote.

**Member:** A Person holding a membership in the Association pursuant to Article III, Section I.

**Mortgage:** Any mortgage, deed to secure debt, or other similar instrument used to encumber real property as security for the payment or satisfaction of an obligation.

**Mortgagee or Mortgage Holder:** The holder of a Mortgage.

**Occupant:** Any Person occupying all or a portion of a residence located on a Lot regardless of whether such Person is a tenant or the Owner of such Lot.

**Owner:** The record owner, whether one or more Persons or the Declarant, of the fee simple title to any Lot located in the Community, but excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation.

**Person:** Any natural person, association, trust, or legal entity.

**Plat:** The plat or plats of survey for Yacht Club Pointe, as such may be revised from time to time, recorded in the land records of Hart County, Georgia, which are incorporated herein by reference thereto.

**Supplementary Declaration:** An amendment to this Declaration that subjects additional real property to this Declaration or that amends the restrictions or obligations affecting the Land.

**Total Association Vote:** All votes attributable to members of the Association or the Declarant as provided

for and subject to the terms of this Declaration.

#### ARTICLE II

##### Property Subject to this Declaration, Conveyance and Partition of Common Property

###### Section 1. Property Subjected to this Declaration.

By the recording of this Declaration, the real property or Land described in Exhibit A attached hereto is subject to the covenants and restrictions hereafter set forth herein and shall be held, transferred, sold, conveyed, used, occupied, mortgaged or otherwise encumbered subject to this Declaration. All of the terms, provisions, liens, charges, easements, covenants or restrictions set forth herein shall be appurtenant to and run with title to the Land or portion thereof.

###### Section 2. Other Property.

Only the Land described herein is made subject to this Declaration. However, by one or more Supplementary Declarations, other real property may be subjected to this Declaration.

###### Section 3. Conveyance of Common Property by Declarant to Association.

The Declarant may convey to the Association any real or personal property interest and subject such interest to the terms of this Declaration. Such conveyance shall be accepted by the Association, and such property shall be Common Property to be maintained by the Association pursuant to the terms of this Declaration. Any property interest conveyed by Declarant shall be without recourse to Declarant including warranty as to fitness of purpose or obligation to repair.

###### Section 4. Partition of Common Property.

The Common Property shall remain undivided, and no Owner or Person shall bring an action for partition or division of the whole or any part of the Common Property without the written consent of all Owners and Mortgagees.

#### ARTICLE III

##### Association Membership and Voting Rights

###### Section 1. Membership.

(a) **Qualification.** Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation. All co-Owners of a Lot shall be jointly obligated to perform the responsibilities of the Owner of the Lot, and any one co-Owner may be held fully responsible for all such obligations. The membership rights of an Owner which is a corporation, partnership, trust, or other entity may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Association's Secretary.

(b) **Classes.** The Association initially shall have two classes of membership, Class "A" and Class "B," with such rights and privileges as are described in this Declaration and in the Association's Articles and By-Laws. Class "A" Members shall be all Owners except the Class "B" Member, if any. The sole Class "B" Member shall be the Declarant. The Class "B" membership shall terminate 15 days after the earlier of:

(i) the date upon which 100% of the Lots have been improved with a dwelling approved for occupancy and have been conveyed to Class "A" Members;

(ii) 10 years from the date of recordation of final plat; or

(iii) the date upon which the Declarant voluntarily terminates such membership by written notice recorded in the Public Records.

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



Section 2. Voting.

(a) Class "A". Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Article III, Section 1; however, there shall be only one vote per Lot. In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Association's Secretary in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) The Class "B" Member shall have twenty one votes. The Class "B" Member is also entitled to appoint members of the Board of Directors during the Developer Control Period. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents.

(c) Manner of Voting. On any matter as to which the Governing Documents or Georgia law require a vote or approval of the membership, such vote or approval may be obtained by affirmative vote at a meeting or by written consent, or by any combination thereof, unless the Governing Documents or Georgia law expressly require that the vote on such matter be taken at a meeting of the membership.

ARTICLE IV

The Association; Association Rights and Restrictions; Variances

Section 1. The Association.

Prior to the date this Declaration has been filed for record with the Clerk of the Superior Court of Hart County, Georgia, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

Section 2. Association Rights and Restrictions.

The Association, acting through its Board, shall have the right and authority, in addition to and not in limitation of all other rights it may have, to:

- (a) make and enforce reasonable rules and regulations governing the use of the Community, including the Lots or the Common Property;
- (b) enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations; by imposing reasonable monetary fines, exercising self-help powers, and suspending use and voting privileges and services paid for as a Common Expense, as provided herein. These powers, however, shall not limit any other legal means of enforcing the use restrictions or Association rules and regulations by either the Association or by an aggrieved Owner;
- (c) grant and accept permits, licenses, utility easements, and other easements, permits, or licenses necessary for the proper maintenance or operation of the Community under, through, or over the Common Property, as may be reasonably necessary or desirable for the ongoing development and operation of the Community;
- (d) control, manage, operate and, in the Board's discretion, maintain, replace, alter, or improve all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration;
- (e) to represent and act on behalf of the Association in the event of damage or destruction as a result of casualty loss, condemnation, or eminent domain, in accordance with the provisions of this Declaration;
- (f) represent the Owners in dealing with governmental entities on matters related to the Common Property; and
- (h) acquire, lease, hold, or dispose of tangible or intangible personal property or real property.

Section 3. Variances.

Notwithstanding the provisions hereof, the Board or ACC shall be authorized to grant variances with

respect to compliance with the provisions of this Declaration, the Bylaws, or any other promulgated rule or regulation, provided that such waivers are not materially inconsistent with the Community-Wide Standard.

ARTICLE V  
Assessments

Section 1. Purpose of Assessment.

The assessments provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners or Occupants of Lots, including the maintenance of real or personal property, all as may be authorized from time to time by the Board.

Section 2. Creation of the Lien and Personal Obligation for Assessments.

By acceptance of a deed to a Lot, regardless of whether it is expressed in such deed, each Owner covenants and agrees to pay to the Association: (a) annual assessments or charges, (b) special assessments, or (c) specific assessments including fines, late charges on delinquent assessments, interest on the principal amount of delinquent assessments, and costs, including, without limitation, reasonable attorney's fees actually incurred in enforcing the terms of this Declaration. All charges shall be a continuing lien upon the respective Lot to which such charges appertain.

Within five days of receiving a written request, the Association shall, for a reasonable charge, cause to be furnished a statement setting forth whether the assessments on a specified Lot have been paid, which statement shall be binding upon the Association as of the date of issuance.

Annual assessments shall be levied at a uniform rate per Lot and shall be paid annually. Any charge or assessment not timely paid shall be delinquent. The delinquency of any installment payment shall accelerate the unpaid balance due of other installments so that the entire assessment is immediately due and payable.

Section 3. Computation of Annual Assessments

It shall be the duty of the Board to prepare a budget covering the estimated operating costs of the Association during the coming year (Proposed Annual Budget), which may include a reserve, if necessary.

The Board shall levy a common assessment (Annual Assessment) against each Lot in an amount reasonably expected to produce total revenue to the Association equal to the Proposed Annual Budget. Notice thereof shall be provided to the Owner. The Proposed Annual Budget and the assessment shall become effective and control unless disapproved by a majority of the Total Association Vote. In the event a Proposed Annual Budget is disapproved or not prepared by the Board, the Budget and Annual Assessment prevailing immediately prior thereto shall be reinstated or remain in effect as the case may be.

Until January 1, 2008, the annual assessment shall be \$500.00 per Lot payable in advance.

Section 4. Initiation or Transfer Fee

A nonrefundable fee of \$1,000.00 ("Initiation Fee") shall be paid to the Association at the time each Lot is first sold or conveyed to an Owner other than the Declarant or Builder, which shall be used for the purpose of providing working capital to the Association.

Post payment of an Initiation Fee, subsequent title transfers shall cause a fee ("Transfer Fee") of \$250.00 to be payable to the Association for the purpose of defraying expense attendant to such transfer (i.e., administrative overhead, printing and distributing copies of this Declaration, Bylaws, etc.

Section 5. Special Assessments.

If approved by a majority of the Total Association Vote, the Association may levy special assessments to cover unbudgeted expenses or expenses in excess of those budgeted (Special Assessments), which shall be paid as determined by the Board.

Section 6. Lien for Assessments.

All assessments or charges against any Lot, together with late charges, interest, reasonable attorney's fees actually incurred in enforcing the terms of this Declaration, shall be secured by a lien on such Lot in favor of the Association, which shall be entitled to file such a lien in the land records of Hart County, Georgia and shall be superior to all other liens or encumbrances except for (a) liens for ad valorem taxes, or (b) liens for all sums secured by a 1st position Mortgage of record in Hart County, Georgia.

The lien(s) provided herein shall be in favor of the Association, who shall have the power to bid at any foreclosure sale of such lien any may hold or convey all interests whatsoever necessary or incidental thereto.

No Owner may escape liability for the assessments provided herein by abandonment of a Lot or otherwise. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and no right of abatement or setoff shall exist by reason of the act or failure to act of the Association under the Declaration or the Bylaws. Also, the voting rights of any Owner may be suspended by the Association if such Owner is delinquent as to any assessment or charge under this Declaration or Bylaws. The Owner shall also be personally liable and subject to suit and judgment in favor of the Association for all charges or assessments of the Association appertaining to the Lot or the Owner.

**Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.**

Any assessment ten days past due shall incur a late charge that shall be the greater of \$50.00 or 20% of the delinquent amount due. Further, an assessment delinquent for 30 days shall bear interest at 12% per annum from the inception of delinquency until paid in full. Payments received for charges or assessments shall be applied against amounts due in the following order: costs (e.g. recording fees, filing, service of process, etc.), attorney's fees, late charges, interest, and assessments.

**Section 8. Date of Commencement of Assessments.**

Assessments shall commence as to a Lot on the date of conveyance of the Lot to a Person other than (a) the Declarant, or (b) a Builder. The Declarant or Builder shall not be responsible for the payment of any type of assessment, except that assessments shall commence on Lots containing occupied residences that are owned by Declarant or any Builder on the first day of the month following the occupancy of the residence located on the Lot. The monthly Assessment shall be pro-rated according to the number of days then remaining in that month.

**Section 9. Specific Assessments.**

The Board, in its discretion, shall have the power to specifically assess. Failure of the Board to specifically assess shall create no cause of action against the Association nor constitute a waiver of the right of the Board to subsequently specifically assess. Fines levied pursuant to this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board may also specifically assess Owners for:

- (a) expenses of the Association that benefit less than all of the Lots in the Community may be specifically equitably assessed among those Lots benefited on the basis of the benefit received by such Lots; and
- (b) expenses of the Association that benefit all Lots but not equally, may be assessed equitably among all Lots according to the benefit received.

**Section 10. Budget Deficits During Declarant Control.**

As long as the Declarant has the authority to appoint the directors or officers of the Association, Declarant may (a) advance funds to the Association sufficient to satisfy the deficit between the actual operating expenses of the Association (but specifically excluding an allocation for capital reserves) and the sum of the annual, special, and specific assessments collected by the Association in any fiscal year, and such advances may be evidenced by promissory notes from the Association in favor of the Declarant or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. The Declarant may guarantee repayment of such loan but no Mortgage secured by the Common Property shall be given in connection with such loan.

ARTICLE VI  
Insurance and Casualty Losses

Section 1. Casualty Insurance on Insurable Common Area.

The Association shall keep all insurable Improvements and fixtures of the Common Area, if any, insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards, casualties or liabilities as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for the property for which the insurance was carried by the Association are common expenses included in the annual assessments made by the Association. If reasonably available, Association shall procure and maintain directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million and No/100s Dollars.

Premiums for the Association's insurance shall be a Common Expense. The policies may contain a deductible amount per occurrence not to exceed one thousand dollars (\$1,000.00), which shall not be subtracted from the face amount of the policy in determining whether the insurance equals the full replacement cost.

Section 2. Replacement or Repair of Property.

In the event of damage to or destruction of any part of the Common Area Improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Reconstruction Assessment against all Lots to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other annual assessments made against such Lot.

Section 3. Annual Review of Policies.

The Board of Directors shall review the Association's insurance policies, if any, annually for adequacy of coverage as compared to the capital value of Amenities which may be damaged or destroyed.

ARTICLE VII  
Condemnation

In the event of a taking of Improvements on Common Property by eminent domain then the Association shall diligently restore or replace the Improvements on the Common Property to the extent land is available, unless eighty percent (80%) of the Total Association Vote other than Declarant and the Declarant otherwise agree. The Declarant's vote is required hereunder only as long as the Declarant has the right to appoint and remove directors and officers of the Association.

ARTICLE VIII  
Architectural Standards

Section 1. General.

Without first obtaining the written consent of the Board or ACC, unless otherwise provided herein, no Owner, Occupant, or other Person may:

- (a) encroach onto the Common Property;
- (b) construct any Improvement on a Lot;
- (c) make any exterior change, alteration, or construction on a Lot (including, without limitation, painting, regrading, altering or replacing any mailbox, or landscape modification); or
- (d) erect, place, or post any object, sign, clothesline, storm door, artificial vegetation, sculpture,

fountains, flags, architectural modifications or other thing (collectively Modifications) on a Lot or Common Property, which may be visible from the exterior of a residence.

The standard for approval of Modifications shall include, without limitation, aesthetic considerations, materials to be used, compliance with the Community-Wide Standard or this Declaration, or the design standards adopted by the Board or ACC, harmony with the external design of the existing improvements, or the location in relation to surrounding improvements and topography.

Applications for Modifications shall be in writing and provide such information as the Board or ACC may reasonably require. The Board or ACC shall be the sole arbiter of approving such applications and may withhold approval for any reason, aesthetic or otherwise. Also, the Board or ACC may rescind approval of Modifications if they fail to conform to plans previously approved.

This Article shall not apply to the activity of the Declarant or to Modifications of the Common Property by the Association or its agents.

#### Section 2. Architectural Control Committee.

**During Declarant Control.** While the Declarant has the right to appoint or remove directors or officers of the Association, Modifications, encroachments onto the Common Property, exterior change or alteration whatsoever must receive the prior written approval of the Declarant. Granting or withholding such approval shall be within the sole discretion of the Declarant.

**After Declarant Control.** When the Declarant no longer has the right to appoint or remove directors or officers of the Association, the Board or ACC may approve or delegate the approval of Modifications to a subcommittee or designate an independent contractor to review applications for Modifications and to make recommendations to the Board or ACC. The Owner of a Lot for which Modifications are sought, shall be responsible for paying the full costs of each review, regardless of whether such application is approved and the Board may require payment of part or all such review cost prior to considering such application.

#### Section 3. Condition of Approval.

A continuing condition of Modification approval shall be that the Owner be responsible for the maintenance, repair, replacement, and insurance appertaining to such Modification. In its discretion, the Board or ACC may require an Owner to furnish evidence satisfactory to the Board or ACC of liability insurance coverage for such Modification. Failure of an Owner to furnish written evidence of such coverage will authorize the rescission of the approval previously granted by the Board or ACC.

#### Section 4. Limitation of Liability.

As to approval of applications for Modifications, the Board or ACC shall bear no liability for design, quality, structural integrity, or soundness of such Modifications and the Owner shall hold the Board, ACC or Association harmless from claim or loss therefore.

#### Section 5. Enforcement.

Any construction, alteration, or Modification done in violation of this Declaration or the Bylaws shall be deemed to be nonconforming and, upon written notice from the Board or ACC, such shall be removed by the Owner without expense to the Board. Noncompliance of an Owner with the foregoing shall authorize the Association or its agents the right of entry and removal of the nonconforming Modification and restoration of the affected area to the standard prevailing immediately prior to the Modification's existence and the Owner shall hold the Board, ACC or Association harmless from all costs whatsoever incurred in effecting or enforcing the foregoing, which may be enforced as a specific assessment against the Owner.

Without limiting the foregoing, the Board is also empowered to impose a fine or fines as to the existence or continuance of the nonconformity, as well as pursue other legal or equitable remedies available to enforce the provisions of the Declaration or Bylaws.

#### Section 6. Commencement of Construction.

All Improvements or Modifications approved by the Board or ACC hereunder must be commenced within six months from the date of approval and non-compliance therewith shall revoke such approval unless a

written extension thereof is given by the Board or ACC. Further upon the commencement of work, all work shall be completed within 12 months, in the case of the initial construction of the dwelling unit, or within 90 days, in the case of subsequent construction.

Section 7. Approval of Contractors, Landscapers and Architects.

The Declarant or, if there is no longer a Declarant, the Board reserves the right to approve all contractors or architects performing alterations on any Lot, which approval may be withheld at the sole discretion of the Declarant or Board. No contractor or architect will be approved without liability insurance coverage for their acts and their proposed undertaking is their primary occupation.

Section 8. Permit Applications to U.S. Army Corps of Engineers.

Prior an Owner's submission of permit applications to the U.S. Army Corps of Engineers, the Owner shall submit such applications to the Declarant or the ACC for prior written approval.

Section 9. Exterior Construction Materials.

The exterior surface of dwelling unit must be of either brick, stone wood or hardy plank siding and shall not be vinyl siding. There shall be no exposed poured concrete or concrete block foundations.

ARTICLE IX  
Use Restrictions and Rules.

Section 1. General.

In addition to the use restrictions following below, the Board may, from time to time, without consent of the Owners, adopt, modify, or delete rules and regulations applicable to the Community. These rules shall be distributed to all Owners prior to the date that they are to become effective and after distribution shall be binding upon all Owners and Occupants of Lots until and unless overruled, canceled, or modified, by the Declarant (until such time as the Declarant no longer has the right to appoint and remove directors or officers of the Association) or by a majority of the Total Association Vote. Notwithstanding the above, until such time as the Declarant no longer has the right to appoint and remove directors or officers of the Association pursuant to the Declaration or Bylaws, no rules and regulations which affect the Declarant may be adopted, modified, or deleted without the written consent of the Declarant.

Section 2. Single-Family Residential Use.

Each Lot shall be used for single-family residential purposes only. All dwelling units must be a minimum of 2,500 square feet. The maximum number of Occupants in a Lot shall be limited to two (2) people per bedroom of the residence appertaining to the Lot. Occupancy for purposes hereof, shall be defined as staying overnight for a total of more than thirty (30) days, either consecutive or non-consecutive, in any calendar year. No dwelling units may be manufactured housing, including without limitation, mobile homes.

No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing in a residence on a Lot may conduct such ancillary business activities within the residence as long as the business activity:

- (a) is not apparent or detectable by sight, sound, or smell from outside of the residence;
- (b) does not involve visitation of the residence by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential residence without business activity;
- (c) conforms to all zoning requirements for the Community;
- (d) does not increase traffic in the Community in excess of what would normally be expected for residences in the Community without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services, and other such similar delivery services);
- (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(f) Is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, and does not otherwise violate any other provision of the Association's legal instruments, as determined in the Board's discretion; and

(g) does not result in a materially greater use of the Commons or Association services.

As used herein, the terms business and trade shall be construed to have their ordinary, generally accepted meanings and include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the foregoing, nothing set forth herein shall prohibit the Declarant or a Builder from conducting sales, leasing or promotional activities on any portion of the Community as the Declarant shall determine including using any Lot as a model home or sales office.

If an Owner of a Lot is not a natural person i.e., corporation, partnership, trust, or other legal entity, the Owner shall designate in writing to the Board the name(s) of the person(s) who will occupy the residence on the Lot and such persons may not change more frequently than once every six months.

#### Section 3. Use of Common Property.

Without the prior written consent of the Board, there shall be no obstruction of the Commons, nor shall anything be kept, parked, or stored on any part of the Commons.

Subject to any restrictions imposed by the Board and with their prior written approval, Owner(s) or Occupant(s) may reserve portions of the Commons for temporary use, which shall be conditioned upon the Owner(s) or Occupant(s) assumption of all risks attendant to such use by themselves, their guests or invitees and upon their holding the Board, Association or their agents harmless from all damage whatsoever to the Commons or liability to others for injuries howsoever incurred.

#### Section 4. Occupants Bound.

All provisions hereof, governing the conduct or sanction of Owners, shall also apply to Occupants even though Occupants are not specifically mentioned and fines may be levied against Occupants which shall be a lien and assessment against the Owner as well.

#### Section 5. Signs.

Without prior written consent of the Declarant as long as the Declarant has the right to appoint or remove directors or officers of the Association, or consent of the Board if the Declarant's right has lapsed, no sign of any kind shall be erected by an Owner or Occupant within the Community. Exceptions to such prior approval are signs for: (a) customary name and address, (b) when offering a Lot or residence for sale provided that it is not more than one and is professionally lettered For Sale consistent with the Community-Wide Standard and having a maximum area of four square feet and a maximum height of four feet above ground level, (c) professional security consistent with the Community-Wide Standard, (d) required by legal proceedings, or (e) erected by Declarant. The restriction shall include the prohibition of placement of any sign within any structure from which the sign shall be visible from the outside.

Notwithstanding the foregoing, the Board or ACC may erect reasonable and appropriate signs. No advertising, directional or vendor signs shall be permitted within the Community except as authorized by the Declarant.

#### Section 6. Vehicles and Parking.

No Owner or Occupant may keep or bring onto the Community more than a reasonable number of vehicles per Lot at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules limiting the number of vehicles which may be parked in the Community.

Disabled vehicles are prohibited from being parked in the Community except in garages. For purposes hereof a vehicle shall be considered disabled if it does not have a current license tag or is inoperable.

If a parked vehicle is in a fire lane, blocking another vehicle or access to another Owner's or Occupant's Lot or residence, obstructing the flow of traffic or creates a hazardous condition, no notice thereof to the owner or user shall be required and the vehicle may be towed immediately. The Association nor any officer, director or agent thereof shall be liable for damage or loss arising by the towing activity authorized herein. The Association's right to tow is not in limitation of but in addition to all other rights of the Association including the right to assess fines.

Motor Homes shall not be parked on any Lot for more than one month of any given calendar year.

Section 7. Wells.

No wells shall be bored on any Lot as the Community shall be served by a community well approved by the Declarant and part of the Commons as determined and approved by the Declarant.

Section 8. Animals or Pets.

No animals, livestock, or poultry of any kind shall be on any Lot or the Common Property with the exception of a reasonable number of generally recognized household pets i.e., dogs, cats, birds, or other usual and common household pets. No Owner or Occupant may keep, breed, or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet, such as dog houses and dog runs, shall be constructed or maintained on any Lot without prior written Board approval. Pets must be kept fenced in or on a leash at all times and accompanied by the owner or person responsible for the pet when outside. Also, feces must be removed by the owner of the pet or the person responsible for the pet.

If any pet, in the Board's sole discretion, endangers the health of any Owner or Occupant, makes objectionable noise, or constitutes a nuisance or inconvenience, it may be permanently removed by the Board from the Community upon seven days written notice to the owner of such pet. Notwithstanding the foregoing, any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety, or Land of any Community member, may be removed by the Board without prior written notice to the pet's owner.

Without prejudice to the Board's right to remove pets, the Board may prohibit a household pet that has caused damage or injury from being walked in the Community. Pets shall also be registered, licensed, and inoculated as required by law. Furthermore, any Person who keeps or maintains a pet within the Community shall, ipso facto, be deemed to hold the Association, its directors, officers, or agents harmless from any loss whatsoever arising by reason of keeping or maintaining such pet within the Community.

Section 9. 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 in the Community shall be used, in whole or in part, for the storage of any property or thing that will cause a Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will discharge foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the surrounding Land. No noxious or offensive activity shall be carried on in the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property in the Community.

Section 10. Unsightly or Unkempt Conditions.

The pursuit of activities that may tend to cause disorderly, unsightly, or unkempt conditions i.e., without limitation, the disassembly or assembly of motor vehicles or other mechanical devices, shall not be undertaken in the Community. Clothing, clotheslines, bedding, rugs, mops, buckets, appliances, indoor furniture, or other similar items shall not be placed or stored outside the residence.

Section 11. Air Conditioning Units.

Except as may be permitted by written consent of the Board or ACC, no window air conditioning units may be installed. Unless otherwise placed on a Lot by the Declarant, condensing units for air conditioners shall only be located in the rear of or along the side of a residence constructed upon a Lot.



**Section 12. Antennas and Satellite Dishes.**

Except as provided below, no satellite dish, antenna, or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic wave or radiation shall be erected, used, or maintained on any portion of the Community; provided, however, that the Association shall have the right to erect, construct, and maintain such devices. The following shall apply to all Owners:

(a) No transmission antenna, of any kind, may be erected anywhere on the Community without written approval of the Board or the ACC;

(b) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than 18 inches in diameter shall be placed, allowed, or maintained upon the Community;

DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association; and

In the event of a transfer of a Lot that includes the satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas including their maintenance or removal. Furthermore, any antenna or satellite dish that is not in use by the Owner shall be removed.

**Section 13. Fences.**

No fences shall be erected without the prior written approval of the Declarant or the ACC. All fences shall conform, without limitation, to the following requirements: (i) must be erected in rear yards only and no further forward than the rear corners of the house, and (ii) must be constructed of cedar, vinyl or metal (chain link fences are not acceptable) and no higher than six feet in height with the finished side facing externally. Once a fence is approved the Board or the ACC, the installation of the fence shall be of a pleasing appearance. If any fence is erected on any Lot which has not been approved by the Board or the ACC, and it continues to exist after fifteen days written notice to the Owner of its non-compliance, then the Board or the ACC, their agents or assigns, are hereby granted an easement for the purpose of ingress, egress and removal of such fence. Such Owner shall indemnify and hold harmless the Association from all costs or damages whatsoever incurred, suffered, or occasioned in undertaking to enforce compliance with this Declaration and such costs shall constitute a charge on the Lot(s) and a continuing.

**Section 14. Docks.**

No docks shall be located without the prior written approval of the Declarant or ACC nor shall a dock be constructed without the prior written approval of the Declarant or ACC as to design and construction materials.

**Section 15. Recreational Areas.**

Any recreational area or other areas or equipment located on the Common Property shall be used at the risk of the user, and the Association shall be without liability whatsoever to any Person for loss, damage or injury occurring arising from such use.

**Section 16. Garbage Cans.**

All garbage cans, waste receptacles or similar items shall be located or screened so as to be concealed from view of neighboring Lots and Common Property and all streets that border the Lot. All construction debris, rubbish, trash, or garbage (collectively "Waste") shall be regularly removed and shall not be allowed to accumulate. No Waste shall be placed on the Common Property temporarily or otherwise, except as provided herein. Waste shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. No Owner or Occupant shall be permitted to place Waste at the street curb for pickup except within the 12 hours preceding such scheduled Waste pickup. All such Waste receptacles shall be removed from the street curb and screened or concealed from view within 12 hours after such scheduled Waste pickup.

**Section 17. Subdivision of Lot.**

No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant, however, hereby expressly reserves the right to change the boundaries or replat Lot(s) owned by Declarant.

Section 18. Outbuildings.

No structures i.e., without limitation, tents, shacks, carports, barns, tool sheds, doghouses, cages, coops, or other out structures shall be erected on any Lot without prior written approved by the board of directors or the ACC.

Section 19. Firearms and Fireworks.

On Common Property, the discharge of firearms or fireworks is prohibited nor may such items be displayed other than during transit to and from an Owner's Lot. The term firearms shall include 8-8 guns, pellet guns or similar arms of all types regardless of size. The term fireworks shall include those items defined in O.C.G.A. § 25-10-1.

Section 20. Gas Tanks.

No above ground liquid petroleum or propane gas tanks greater than 20 lbs. shall be allowed on any Lot.

Section 21. Abandoned Personal Property.

Except for that owned by the Association, personal property (Personalty) is strictly prohibited from being stored, kept, or allowed to remain for a period of more than 24 hours upon any portion of the Common Property or on the rights-of-way located within the Community. If the Board or its designee, in its sole discretion, determines that there is a violation of this Section, then the Board may cause the Personalty to be removed, discarded, or stored as the Board may determine and neither the Association nor any officer or agent of the Association shall be liable to any Person for loss or damage resulting from such undertaking. The foregoing is in addition and not in limitation of other sanctions available to the Association e.g., fines or sanctions for abandoned or non-complying Personalty.

ARTICLE X  
Sale of Lots

An Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give the Board written notice of such intention within seven days after execution of the transfer or sales documents. The Owner shall furnish the Board, as part of the notice, the name and address of the intended grantee and such other information as the Board may reasonably require. This Article shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven days after receiving title to a Lot, the purchaser of the Lot shall give the Board written notice of their ownership. Upon failure of an Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining such Owner's identity.

ARTICLE XI  
Maintenance

Section I. Association's Responsibility.

The Association shall maintain the Area of Common Responsibility in good repair, which shall be deemed to include maintenance, repair, or replacement of the Common Property i.e., without limitation:

- (a) all landscaping and grassy areas not included in a Lot, includes removal of invasive or exotic plant species such as Chinese privet, kudzu and Japanese honeysuckle (e.g., open space, landscaping buffers on perimeter of the Community),
- (b) the entry or perimeter features regardless of being located on a Lot or public right-of-way i.e., without limitation, any irrigation system or expense for water or electricity pertaining to such maintenance,

(c) any drainage or detention facilities that were originally maintained by the Declarant and are not maintained by a governmental entity;

(d) specialty street signs, if any, originally installed by Declarant whether or not such street signs are on a Lot or public right-of-way;

(e) all such other property that the Board or ACC determines the maintenance thereof to be in the best interest of the Owners, regardless of whether owned by the Association or located outside the Community. Except to the extent the Association receives insurance proceeds for a claim, the Association shall be without liability for loss, damage or injury caused by: (a) the elements i.e., rain, snow, water or ice including if such elements emanate from or are directed by property of others (e.g. utilities) located in any portion of the Area of Common Responsibility or (b) an Owner or Person including from any property of such Owner or Person that the Association may maintain or have custody of. No diminution or abatement of assessments shall be asserted or allowed by reason of any failure of the Association to act or perform as permitted or required by this Declaration.

If the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association, is caused through the willful or negligent act of an Owner or the Owner's agent, family, invitee, lessee, or licensee, then the Association may perform the maintenance, repair, or replacement at the expense of the Owner, and all costs thereof shall be specifically assessed against the Owner and a lien against the Lot.

In performing its responsibility hereunder, the Association shall have the authority to delegate performance to such persons, firms, or corporations as the Board may choose.

#### Section 2. Owner's Responsibility.

Each Owner and Other Builder shall maintain his Lot and the Improvements thereon in a neat, clean, and eye-pleasing condition which shall include the maintenance of the front lawn of his Lot consistent with this Declaration and the Community-Wide Standard.

The Board of Directors or the ACC shall be the arbiter as to whether said maintenance is consistent with this Declaration and the Community-Wide Standard. If, fifteen days after having served notice to any Owner or Other Builder of any deficiencies in this regard, any deficiency still exists, the Board of Directors or the Architectural Control Committee may correct said deficiency at its option. Such Owner or Other Builder shall then be liable for any costs and charges incurred as a result of such correction, and should such Owner or Other Builder then not make remuneration within such terms as are then set, the costs and charges will be the basis of a lien against such Owner's or Other Builder's Lot.

#### Section 3. Maintenance Standards and Interpretation.

The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary as the composition of the Board or ACC changes. These variances shall not constitute a waiver or estoppel as to right of the Board or ACC to adopt or enforce maintenance standards under this Declaration.

### ARTICLE XII Mortgagee Provisions

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

#### Section 1. Notices of Action.

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

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

holder;

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

(c) the undertaking of any action requiring the consent of a specified percentage of Mortgage holders.

Section 2. Approval of Action.

Unless two-thirds of the first Mortgagees or Owners other than the Declarant give their consent, the Association shall not by act or omission:

(a) 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 Declaration) other than personal Land of the Association;

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

(c) 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 Declaration);

(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 Land.

First Mortgagees, after written notice to the Association, may pay taxes or other charges that are in default and a lien against the Common Property or pay insurance premiums for Common Property, and shall be entitled to immediate reimbursement from the Association.

Section 3. 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 any Common Property.

Section 4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of the Owner's mortgage of a Lot.

Section 5. Applicability of Article XII.

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

Section 6. Failure of Mortgagee to Respond.

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

Section 7. Amendments by Board.

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

**Section 8. Liability for Common Expenses.**

Where title to a Lot is conveyed pursuant to a foreclosure proceeding of a first position Mortgagee the grantee of such title shall not be liable for the assessments by the Association appertaining to such Lot that became due prior to the date such grantee acquired title, but grantee shall be responsible for all assessments accruing thenceforth, which shall include assessments accruing in the month title passed to such grantee.

**Section 9. Financial Statement.**

Subject to the Association's right to collect a reasonable charge, a holder of a first Mortgage shall be entitled, upon written request, to receive a copy of the financial statement of the Association for the immediately preceding fiscal year.

**Section 10. Sales and Leases.**

The provisions of this Declaration notwithstanding, no limitation shall impair a Mortgagee's right to (a) foreclose or take title to a Lot secured by its Mortgage or (b) take a deed or assignment in lieu of foreclosure.

**ARTICLE XIII  
Easements**

**Section 1. Easements for Use and Enjoyment.**

Every Owner shall have an easement for use and enjoyment of the Common Property including ingress and egress to such Common Property that shall be appurtenant to and pass with title to the Lot, subject to the Association's right to:

- (a) charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his or her family, tenants, guests, and invitees;
- (b) suspend an Owner's right to vote or prevent an Owner or Occupant from using the recreational facilities of the Community when assessments are delinquent or when an infraction of the rules, regulations, Declaration or Bylaws occurs;
- (c) borrow money;
- (d) grant easements or a license permits, licenses, or easements over, under, through, and across the Common Property to governmental entities for public purposes; and
- (e) dedicate or transfer Common Property subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of the Owners of at least two-thirds of the Lots and the consent of Declarant as long as Declarant owns any land for development or sale in the Community or has the right to subject Additional Real Property to the Community.

Any Owner may delegate use and enjoyment in and to the Common Property to the members of his or her family, tenants or guests. An Owner shall be deemed to have made a delegation of all these rights to the Occupants of the Owner's Lot, if leased.

**Section 2. Easements for Street Lights and Utilities.**

There is reserved to the Declarant, and the Association, blanket easements upon, across, above, and under all Lots on the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities and services, including any without limitation all street lights serving the Common Property, and reading meters e.g.: (a) utilities serving any portion of the Common Property i.e., gas, water, sanitary sewer, telephone, and electricity, (b) water runoff and storm drainage systems, (c) street lights, and (d) other serving the Community. It shall be expressly permissible for the Declarant, Association, their agents or independent contractors to authorize the installation, repair or replacement of wires,

conduits, cables, bulbs, apparatus or equipment related to providing any such utility or service. Should a vendor require a license or easement by separate recordable document, the Declarant, or Association shall have the authority to grant it.

Also, it shall be expressly permissible for any agent or employee of any utility company to enter onto a Lot to read any utility meter. In the event a meter on a Lot is in a gated or fenced in area, such area shall be universally keyed for the utility provider(s) or such Owner shall provide the Association with a key to such area. Neither the Declarant nor the Association shall be liable for any loss or damage due to its holding or use of such key for the purposes described above and each Owner shall hold harmless the Declarant, the Association, its officers and directors against any expense, loss or damage arising with regard to the holding or use of such key as provided above.

**Section 3. Easement for Entry.**

In addition to other rights, the Board or its agents shall have the right, without obligation, to enter upon any real property in the Community for reasons of emergency, security or safety. This right is also exercisable by agents of the Association or police, fire, ambulance or like personnel in the line of duty. Other than emergency situations, the right shall be exercised during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. Included in the right of entry is the right to cure any condition that may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition after request by the Board.

**Section 4. Easement for Association Maintenance.**

Declarant reserves for itself and the Association or their agents or independent contractors, a perpetual easement in the Community for the purpose of maintenance, access or other use provided for or by the Declaration or Bylaws.

**Section 5. Easements to Serve Additional Real Property.**

The Declarant reserves an easement over the Common Property for the use, access, and development whatsoever of additional property that may be subjected to this Declaration by Declarant.

**Section 6. Easement for Entry and Perimeter Features and Street Signs.**

Declarant reserves for itself and the Association or their agents or independent contractors, a perpetual easement in the Community for landscaping, street signs and entry and perimeter feature improvements in the Community including the construction or maintenance thereof and access thereto.

**Section 7. Public in General.**

Although no public easements are intended or created by this Declaration, the Board, upon reasonable notice posted in the Community, is authorized to temporarily close all or any portion of the Community that the Board deems necessary to prevent a public dedication or the acquisition of rights by others who are not the intended beneficiaries per this Declaration.

**ARTICLE XIV  
General Provisions**

**Section 1. Enforcement.**

Each Owner and Occupant shall comply strictly with this Declaration, Bylaws, rules or regulations governing the Land (collectively "Governing Documents"). The Board may impose fines or other sanctions, for violation of the Governance, which shall be collected as provided herein for the collection of assessments or, without limitation, by an action for injunctive relief, damages or both by the Association or by an Owner. In any such action the prevailing party shall be entitled to recover reasonable attorney's fees actually incurred and court costs incident to such action. Failure to enforce the Governing Documents shall not be deemed a waiver of the right to do so thereafter.

**Section 2. Self-Help.**

Without limiting the foregoing, the Association or its agent shall have the right to enter upon any Lot or any other portion of the Community to abate or remove any structure, thing, or condition which violates

the Governing Documents. Unless an emergency situation exists, the Board shall give the violating Owner or Occupant ten (10) day's written notice of its intent to exercise self-help. All costs of self-help i.e., without limitation, reasonable attorney's fees actually incurred, shall be assessed against the Owner or Occupant and shall be collected as provided for herein for the collection of assessments.

**Section 3. Duration.**

The covenants, restrictions, and easements of this Declaration shall run with and bind the Community, and shall inure to the benefit of be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of 20 years, unless two-thirds (2/3) of the persons owning Lots execute a document to terminating provision(s) of the Declaration.

**Section 4. Amendment.**

This Declaration may be amended unilaterally by Declarant if necessary to (a) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial decree, (b) enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration, (c) comply with a requirement of an Institutional lender or purchaser of mortgage loans secured by Lot(s) e.g., Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, for the making or purchasing of such loans or (d) enable any governmental agency or private insurance company to insure loans secured by Lot(s); provided that any such amendment shall not adversely affect the title to a Lot(s) without the written consent of an Owner thereto. Also, the Declarant may unilaterally amend this Declaration as long as it owns any real property for development or sale in the Community, provided that such amendment shall not materially impair an affected Owner(s) rights without his written consent thereto.

This Declaration may be amended upon the affirmative vote or written consent of the Owners of at least 55% of the Lots and the consent of Declarant, as long as the Declarant owns any property for development or sale in the Community.

Any lawsuit disputing the efficacy of an amendment to this Declaration must be filed within one year of the date of recordation of such amendment in the land records of Hart County, Georgia.

**Section 5. 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 6. Severability.**

If any provision of this Declaration shall be held invalid, void or unenforceable, the remaining provisions shall remain in full force and effect.

**Section 7. Captions.**

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

**Section 8. Perpetuities.**

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

**Section 9. Indemnification.**

To the fullest extent allowed by law, the Association shall indemnify every officer and director harmless

from expense, e.g., attorney's fees, imposed upon or reasonably incurred by any officer or director incident to an action, suit, or other proceeding to which such person may be a party by virtue of his office or directorship. Officer(s) or director(s) shall be without personal liability for misfeasance as officer(s) or director(s) unless willful, in wanton disregard or in bad faith.

Section 10. Books and Records.

Inspection by Owner(s) or Mortgagee(s). The Governing Documents, membership role, books of account, and minutes of meetings shall, upon reasonable notice, be made available at the office of the Association for inspection and, for a reasonable fee, copying by any Owner or Mortgagee(s).

Section 11. Financial Review.

A review of Association books and records shall be made annually in the manner as the Board may decide; provided, by a majority of the Total Association Vote, the Owners may require that such books and records be audited as a common expense by a certified public accountant.

Section 12. Agreement.

All agreements or determinations, including settlement agreements regarding litigation involving the Association, authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns.

Section 13. Dispute Resolution.

Before filing any lawsuit against the Association or Board, an Owner or Occupant must give written notice of any grievance and afford a reasonable time to amicably resolve it between the concerned parties.

ARTICLE XVI  
Additional Covenants and Easements

Declarant may unilaterally subject any portion of the Community submitted to this Declaration Initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain or insure additional property for Association's benefit.

ARTICLE XVII  
Declarant's Rights

Section 1. Transfer of Declarant's Rights.

Any or all of Declarant's rights may be transferred to other Persons by a written instrument signed by the Declarant and duly recorded in the land records of Hart County, Georgia.

Section 2. Construction and Sale Period.

Notwithstanding the Governing Documents, as long as Declarant owns any property in the Community for development or sale, Declarant reserves an easement across all real property in the Community for Declarant's use to carry on activities or maintain facilities necessary or convenient to Declarant's development, construction or sales related to Community.



IN WITNESS WHEREOF, this Declaration has been executed, effective as of the 20th day of April, 2006.

Signed, sealed and delivered in the presence of:

*[Handwritten signature]*

WITNESS

*[Handwritten signature]*  
NOTARY PUBLIC  
My commissioner expires on \_\_\_\_\_



DECLARANT: Sterling Manor Development, Inc.

By: *[Handwritten signature]*  
J. Scott Adams, President

Consented to: Good Hart Investments, LLC

By: *[Handwritten signature]*  
J. Scott Adams, Manager

BY-LAWS  
OF  
YACHT CLUB POINTE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Name, Principal Office, Definitions

Section 1. Name.

The name of the corporation is Yacht Club Pointe Homeowners Association, Inc. (the "Association").

Section 2. Principal Office.

The principal office of the Association shall be located at i/c/o Sterling Manor Development, Inc. P.O. Box 25 HOSCHTON, GA 30548. The Association may have such other offices, either within or outside the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions, unless otherwise specified. In order to minimize repetition, some terms are capitalized to indicate that they have specific definitions as set forth in the Declaration of Covenants, Conditions, Restrictions, and Easements for Yacht Club Pointe (the "Declaration"), executed by Sterling Manor Development, Inc., a Georgia corporation, as Declarant, and recorded in the Public Records of Hart County, Georgia, as such Declaration may be amended.

ARTICLE II

Membership and Meetings

Section 1. Membership.

The Association initially shall have two classes of membership, Class "A" and Class "B," as described in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

Section 2. Place of Meetings.

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Community or as convenient as possible and practical.

Section 3. Annual Meetings.

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

Section 4. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 10% of the total Class "A" votes in the Association.

Section 5. Notice of Meetings.

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

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

If mailed, the notice of a meeting shall be deemed to be delivered when hand delivered or deposited in the United States mail addressed to the Member at the address of the Member's Lot or such other address as the Member may have designated in writing to the Association, with postage prepaid.

Section 6. Waiver of Notice.

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

Section 7. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of some Members leaving less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

Section 8. Voting.

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

Section 9. Proxies.

Members may vote in person or by proxy, subject to the limitations of Georgia law relating to use of proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. Every proxy shall be in writing and shall identify the Lot for which it is given. Proxies shall be signed by the Member or the Member's attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective.

Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon conveyance of any Lot for which it was given, upon receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or one year from the date of the proxy, unless a shorter period is specified in the proxy.

Section 10. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totalling more than 50% of the total eligible number.

Section 11. Quorum.

Except as otherwise provided in these By-Laws or in the Declaration, the presence of persons entitled to cast at least 25% of the total Class "A" votes in the Association shall be required to transact business at any meeting of the membership.

Section 12. Conduct of Meetings.

The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

Section 13. Action Without a Meeting.

Unless otherwise prohibited by Georgia law, any action required or permitted by law to be taken at a meeting of the Members may be taken by written consent or by ballot cast by mail without a meeting, in accordance with the following procedure:

(a) The Secretary shall send written notice of the proposed action for which consent is requested to each Member entitled to vote thereon at least 10 days prior to the deadline for returning the ballots or consents. The notice shall be accompanied by a ballot or consent form which:

- (i) describes the proposed action;
- (ii) provides a place to indicate, in the case of a ballot, how the Owner's vote is to be cast, or in the case of a consent, the Owner's approval or disapproval of, or consent to the proposed action;
- (iii) provides a method of identifying the Owner and the Lot for which the ballot is cast or consent is given, and in the case of a consent, a place for the Owner's signature; and
- (iv) indicates the address to which completed forms should be returned and the deadline for returning them, if any.

(b) The proposed action shall be deemed approved if ballots or consents approving the action are received from Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present, and such ballots or consents shall have the same force and effect as a vote of the Members at a meeting. The ballots or consents shall be filed with the minutes of the Association. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote fairly summarizing the material features of the authorized action.

ARTICLE III

Board of Directors

A. Composition and Selection.

Section 1. Governing Body; Composition.

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members. In the case of a Member which is not a natural person, any officer, director, partner, or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; however, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

**Section 2. Number of Directors.**

The Board shall consist of one to three directors, as provided in Article III Section A.3 and A.5 below. The initial Board shall consist of one directors as identified in the Articles of Incorporation.

**Section 3. Directors During Developer Control Period.**

Subject to the provisions of Article III, Section A.5, the Declarant, as the Class "B" Member, shall be entitled to appoint, remove, and replace the directors in its sole discretion until the termination of the Developer Control Period as defined in the Declaration, which is incorporated herein by reference.

**Section 4. Nomination and Election Procedures.**

(a) **Nominations and Declarations of Candidacy.** Prior to each election of directors, the Board shall announce the opening date and the closing date of a reasonable period in which any eligible person who has an interest in serving as a director may file as a candidate for any position for which he or she may be eligible. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient, and cost-effective manner.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board may also be made by a nominating committee. The nominating committee, if any, shall consist of a chairman, who shall be a member of the Board, and three or more Members or representatives of Members. The Board shall appoint the members of the nominating committee, if one is to be appointed, not less than 30 days prior to the election and such appointment shall be announced in the notice of each election.

The nominating committee may make as many nominations for election to the Board as it shall in its discretion determine. In making its nominations, the nominating committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

(b) **Election Procedures.** Each Member may cast all votes assigned to its Lot for each position on the Board of Directors to be filled by such election. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected (e.g. if there are three positions to be filled and there are five candidates, the three candidates receiving the greatest amount of votes shall be elected.) Directors may be elected to serve any number of consecutive terms.

**Section 5. Election and Term of Office.**

Notwithstanding any other provision of these By-Laws:

Not later than 60 days after termination of the Developer Control Period, the Board shall increase to three directors and the President shall call for an election by which the Class "A" Members shall be entitled to elect all of the three directors. The directors elected by the Class "A" Members shall serve until the first annual meeting following the termination of the Developer Control Period. If such annual meeting is scheduled to occur within 60 days after termination of the Developer Control Period, the Class "A" Members shall elect the five directors at the annual meeting. Two directors shall serve a term of two years and one director shall serve a term of one year as such directors decide among themselves.

Upon the expiration of the term of office of each director elected by the Class "A" Members, such Members shall be entitled to elect a successor to serve a term of two years. The directors elected by the Members shall hold office until their respective successors have been elected.

**Section 6. Removal of Directors and Vacancies.**

Any director elected by the Class "A" Members may be removed, with or without cause, by a two-thirds vote of the Class "A" Members present and entitled to vote at any meeting at which a quorum is present. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any Assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term.

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

**B. Meetings.**

**Section 1. Organizational Meetings.**

The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

**Section 2. Regular Meetings.**

Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

Notice of the time and place of a regular meeting shall be communicated to directors not less than four days prior to the meeting; however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 3. Special Meetings.**

Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two directors.

**Section 4. Notices; Waiver of Notice.**

(a) Notices of meetings of the Board shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by:

- (i) personal delivery;
- (ii) first class mail, postage prepaid;

(iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director, or

(iv) facsimile, computer, fiber optics or other electronic communication device, with confirmation of transmission.

All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall also be posted in a prominent place within the Community. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

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

#### Section 5. Telephonic Participation In Meetings.

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

#### Section 6. Quorum of Board of Directors.

At all meetings of the Board, the presence of a majority of the directors shall be necessary to establish a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

#### Section 7. Compensation.

Directors shall not receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association and by the Class "B" Member at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. The Association may compensate a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

#### Section 8. Conduct of Meetings.

The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at

such meetings.

Section 9. Open Meetings.

Subject to the provisions of Article III, Section 8.10, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on their behalf by a director. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

Section 10. Action Without a Formal Meeting.

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

C. Powers and Duties.

Section 1. Powers.

The Board of Directors shall have all of the powers necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done, without a vote of the membership, all acts and things except those as to which the Governing Documents or Georgia law require a vote of the membership.

Section 2. Duties.

The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;
- (b) levying and collecting such assessments from the Owners;
- (c) providing for the payment of property taxes, operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to exercise the authority and carry out the responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association provided that any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;
- (f) making and amending Restrictions and Rules in accordance with the Declaration;
- (g) opening of bank accounts on behalf of the Association and designating the persons authorized to sign on such accounts;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;
- (i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by it;



- (j) bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association, subject to the provisions of Article XIV of the Declaration;
- (k) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof and filing and adjusting claims, as appropriate;
- (l) paying the cost of all services rendered to the Association;
- (m) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (n) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (o) permitting utility suppliers to use portions of the Common Property reasonably necessary to the ongoing development or operation of the Community;
- (p) indemnifying a director, officer, or committee member, or former director, officer, or committee member of the Association to the extent such indemnity is required by Georgia law, the Articles of Incorporation, or the Declaration; and
- (q) assisting in the resolution of disputes between owners and others without litigation, as set forth in the Declaration.

### Section 3. Right of Declarant to Disapprove Actions.

During the Developer Control Period, the Class "B" Member shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant under the Declaration or these By-Laws, or interfere with the development, construction, marketing, or sale of Declarant's unsold Lots in any portion of the Community, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address which the Class "B" Member has registered with the Secretary of the Association, which notice complies as to the Board meetings with Section Article III, Section B.4 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board, or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

Section 4. Management.

The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary for the manager to assist the Board in performing its duties under Article III, Section C.2, but shall not delegate policy-making authority or ultimate responsibility. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

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

Section 5. Accounts and Reports.

The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (f) commencing at the end of the quarter in which the first Lot is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:
  - (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
  - (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
  - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
  - (iv) a balance sheet as of the last day of the preceding period; and
  - (v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and
- (g) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant.

Section 6. Borrowing.

The Association shall have the power to borrow money for any legal purpose provided that the Board shall obtain approval of Members entitled to cast at least a majority of the votes cast at a duly called and held meeting of the Members at which a quorum is represented, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 25% of the budgeted gross expenses of the Association for that fiscal year. During the Developer Control Period, no Mortgage Lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing at least 67% of the total Class "A" votes in the Association.

**Section 7. Right to Contract.**

The Association shall have the right to contract with any Person for the performance of various duties and functions.

**ARTICLE IV**

**Officers**

**Section 1. Officers.**

The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

**Section 2. Election and Term of Office.**

The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

**Section 3. Removal and Vacancies.**

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

**Section 4. Powers and Duties.**

The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 5. Resignation.**

Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc.**

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board

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resolution.

Section 7. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

ARTICLE V

Committees

Section 1. General.

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

Section 2. Architectural Review Committee.

The Board shall appoint an architectural review committee upon delegation or termination of the Declarant's authority over architectural matters pursuant to Article IV of the Declaration. Such committee shall operate in accordance with the terms of such Article IV and resolutions of the Board of Directors.

ARTICLE VI

Miscellaneous

Section 1. Fiscal Year.

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

Section 2. Parliamentary Rules.

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

Section 3. Conflicts.

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

Section 4. Books and Records.

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

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

- (i) notice to be given to the custodian of the records;

- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing documents requested.

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

#### Section 5. Notices.

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

- (a) If to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or
- (b) If to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section

#### Section 6. Amendment.

Prior to the conveyance of the first Lot by Declarant to a Person other than a successor Declarant, the Class "B" Member may unilaterally amend these By-Laws. Thereafter, the Board may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, or regulation, or judicial determination; or (ii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee mortgage loans on the Lots.

Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of persons entitled to cast at least 55% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists.

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

A copy of any amendment shall be provided to the U.S. Department of Housing and Urban Development and/or the U.S. Department of Veterans Affairs if either such agency is insuring or guaranteeing the Mortgage on any Lot, and either such agency shall have the right to veto any such amendment so long as there is a Class "B" Membership.

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

Amendments to these By-Laws shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within three months of its recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

#### Section 7. Liens for Assessments.

All assessments or charges against any Lot, together with late charges, interest, reasonable attorney's fees actually incurred in enforcing the terms of the Declaration, shall be secured by a lien on such Lot in favor of the Association, which shall be entitled to file such a lien in the land records of Hart County, Georgia


and shall be superior to all other liens or encumbrances except for (a) liens for ad valorem taxes, or (b) liens for all sums secured by a 1<sup>st</sup> position Mortgagee of record in Hart County, Georgia. . . The lien(s) provided herein shall be in favor of the Association, who shall have the power to bid at any foreclosure sale of such lien any may hold or convey all interests whatsoever necessary or incidental thereto.

ARTICLE VII

Dissolution

The Corporation may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of voting members and the approval of the Hart County Board of Commissioners. Upon dissolution of the Corporation, other than incident to a merger or consolidation, the assets of the Corporation shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Corporation was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, we, being all of the directors of the Association, have hereunto set our hand effective the 20<sup>th</sup> day of April 2006.

  
J. Scott Adams

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