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STATE OF GEORGIA

COUNTY OF CHEROKEE

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND EASEMENTS FOR STONEY CREEK

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LIST OF EXHIBITS

- EXHIBIT "A" - DESCRIPTION OF SUBMITTED PROPERTY
- EXHIBIT "B" - ADDITIONAL PROPERTY
- EXHIBIT "C" - BYLAWS

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND EASEMENTS FOR STONEY CREEK

THIS DECLARATION is made on the date set below by McBride & Son Homes Land Development, Inc., a Missouri corporation (hereafter referred to as the "Declarant").

WITNESSETH

WHEREAS, the Declarant is the owner of the real property described in Exhibit "A" attached hereto;

WHEREAS, Declarant intends to subject the real property described in Exhibit "A" attached hereto to the provisions of this Declaration to create a residential community and to provide for subjecting and annexing additional real property to the provisions of this Declaration; and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" attached hereto is subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, mortgaged, and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens set forth herein, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any part of the property subjected hereto, including their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of such property.

ARTICLE I

DEFINITIONS

- 1.1. Additional Property means the property described in Exhibit "B" attached hereto, which is incorporated herein by this reference.
- 1.2. Association means Stoney Creek Community Association, Inc., a Georgia nonprofit corporation, its successors or assigns.
- 1.3. Board or Board of Directors means the body responsible for the management and operation of the Association as determined by the Bylaws.
- 1.4. Bylaws mean the Bylaws of Stoney Creek Community Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference.
- 1.5. Common Property means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners, or any other land to which the Association has occupancy or use rights, including without limitation, the

following, any open space, amenity, street (until such time as accepted by a municipality or other government agency), sidewalk, subdivision entrance monument, and street lights (until such time as accepted by a municipality, other government agency, or utility).

- 1.6. Community or Stoney Creek means all property subjected to this Declaration.
- 1.7. Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board.
- 1.8. Declarant means McBride & Son Homes Land Development, Inc., its successor or assign if such successor or assign owns or acquires more than one undeveloped Lot from the Declarant for the purpose of development and if the Declarant has expressly assigned its Declarant rights to such successor or assign in writing; provided, however, at such time as McBride & Son Homes Atlanta, LLC, a Missouri limited liability company, (or its successor, assign, or affiliate) acquires fee title to any Lot, McBride & Son Homes Atlanta, LLC (or its successor, assign, or affiliate) shall automatically become the Declarant for all purposes hereunder with all rights and privileges of the Declarant, and McBride & Son Homes Land Development, Inc. (including its successor or assign) shall no longer be the Declarant hereunder.
- 1.9. Declaration means this Declaration of Covenants, Conditions, Restrictions, and Easements for Stoney Creek.
- 1.10. Detached House means a detached single-family dwelling.
- 1.11. Detached House Lot means a Lot intended for the construction thereon of a Detached House.
- 1.12. Effective Date of this Declaration means the date this Declaration of Covenants, Conditions, Restrictions, and Easements for Stoney Creek is recorded in the Cherokee County, Georgia land records.
- 1.13. Eligible Mortgage Holder means a holder of a first mortgage secured by a Lot who has requested notice of certain items under Article XVI of this Declaration.
- 1.14. Lot means a portion of the Community intended for the construction thereon of a dwelling (whether a Detached House or Townhouse) as shown on the plats for the Community recorded in the Cherokee County, Georgia land records.
- 1.15. Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation against a Lot.
- 1.16. Mortgagee or Mortgage Holder means the holder of any Mortgage.

1.17. Occupant means any Person occupying all or any portion of a Detached House or Townhouse located within the Community for any period of time.

1.18. Owner means the record title holder of a Lot, whether one or more Persons, but shall not include a Mortgage Holder. The term Owner shall include the Declarant for each Lot owned by the Declarant.

1.19. Person means any individual, corporation, partnership, trust, or other legal entity.

1.20. Supplemental Declaration means an instrument recorded pursuant to Article III, Section 3.1 of this Declaration to annex and subject all or a portion of the Additional Property to the Declaration.

1.21. Townhouse means an attached single-family dwelling.

1.22. Townhouse Lot means a Lot intended for the construction thereon of a Townhouse.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.1. Location and Description. The property subject to this Declaration is located in Land Lots 701, 702 and 703 of the 15th District, 2nd Section of Cherokee County, Georgia and being more particularly described in Exhibit "A" hereto, which is specifically incorporated herein by this reference.

2.2. Additional Property. All or a portion of the Additional Property may be annexed and subjected to this Declaration as set forth in Article III, Section 3.1 hereof.

ARTICLE III

DECLARANT RIGHTS

In addition to any other rights of the Declarant set forth in the Declaration or Bylaws, the Declarant reserves the rights included within this Article.

3.1. Annexation of Additional Property. Until all of the Additional Property described on Exhibit "B" has been annexed and subjected to this Declaration, or ten years from the Effective Date of this Declaration, whichever is earlier, the Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." Such annexation shall be accomplished by recording a Supplemental Declaration describing the property to be annexed. Such Supplemental Declaration shall not require the consent of the Lot Owners but shall require the consent of the owner of the property to be annexed,

if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Nothing in this Declaration shall be construed to require the Declarant to acquire, annex, or develop any of the property described in Exhibit "B."

3.2. Construction, Marketing and Sales. Declarant and any builder authorized by the Declarant may maintain and carry on without fee or charge upon the Common Property or any Lot owned by the Declarant as, in the sole discretion of the Declarant, may be convenient or incidental to the construction or improvement of the Lots or Common Property and the sale of the Lots, including, but not limited to, signs, model homes, construction trailers, and sales offices. In addition the Declarant and builders may park vehicles in areas other than driveways or garages.

3.3. Board of Directors. The Declarant shall have the right to appoint and remove directors and officers of the Association until the earlier of the following to occur: (a) seven years from the Effective Date of this Declaration; (b) the date on which ninety percent (90%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person; or (c) the voluntary surrender by Declarant, in writing, of the authority to appoint and remove the Association's directors and officers. The Declarant shall thereafter retain the right to veto any action of the Board of Directors until such time as all of the Additional Property described on Exhibit "B" has been annexed and subjected to this Declaration, or ten years from the Effective Date of this Declaration, whichever is earlier.

3.4. Amendments. Until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person, any amendment to the Declaration or Bylaws must be approved in writing by the Declarant prior to becoming effective; and during such time, Declarant shall have the unilateral right to amend the Declaration and Bylaws from time to time without the approval of the Association members. Declarant shall have the right to veto and reject any amendment to the Declaration or Bylaws until such time as all of the Additional Property described on Exhibit "B" has been annexed and subjected to this Declaration, or ten years from the Effective Date of this Declaration, whichever is earlier.

3.5. Right to Notice of Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any Detached House, Townhouse, structure, or improvement in the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has been first notified in writing and given an opportunity to meet with the Owner of the property to discuss the Owner's concerns and conduct its own inspection. Declarant reserves the right for itself and others it may designate to inspect, monitor, test, redesign, and correct any Detached House, Townhouse, improvement, or condition which may exist on any portion of the Community, including the Lots and Common Property, and a perpetual easement of access through the Community for such purposes. No entry into a Detached House or Townhouse shall be permitted without the expressed

consent of the Owner. Any Person exercising this right shall promptly repair, at such Person's expense, any damage resulting from the exercise thereof.

3.6. Assignment of Declarant Rights. Any and all special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred or assigned in whole or in part to any other Person, provided the transfer shall not reduce an obligation or enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment, other than that expressed in Article I, Section 1.8 hereof, shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Cherokee County, Georgia land records.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

4.1. Membership. Every Owner shall be deemed to have a membership in the Association. This is not intended to include Mortgagees or other Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast for each Lot owned.

4.2. Voting. Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any assessment or charge.

4.3. Entity Members. In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary, or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner of the Lot. The membership rights of an Owner which is a corporation, partnership, or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

ARTICLE V

ASSOCIATION RIGHTS AND RESTRICTIONS.

5.1. Association Rights and Restrictions. The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of any other right it may have, to:

(a) make and to enforce reasonable rules and regulations governing the use of the Common Property;

(b) enforce the Declaration, Bylaws, and rules and regulations of the Association by imposing reasonable monetary fines and suspending use and voting privileges. These powers, however, shall not limit any other legal means of enforcing such documents or provisions by either the Association or, in an appropriate case, by an aggrieved Owner;

(c) grant permits, licenses, utility easements, and other easements, permits or licenses under, through or over the Common Property;

(d) control, manage, operate, maintain, replace and, in the Board's discretion, alter or improve all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration;

(e) deal with the Common Property 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

(g) sell, transfer or convey any portion of the Common Property only upon the approval of two-thirds (2/3) of the total vote of the Association.

ARTICLE VI

ASSESSMENTS

6.1. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein. Assessments shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Association and the membership, and for expenses of the Association as provided within the Declaration, and as otherwise authorized by the Board.

6.2. Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following: (i) annual assessments; (ii) specific special assessments pursuant to Section 6.3 of this Article; (iii) special assessments pursuant to Section 6.6 of this Article; and (iv) capital contribution assessments (initiation fees) subject to Section 6.7 of this Article.

All such assessments, together with late charges, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees from any prior judgment, if any), shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and the Owner's grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board. The Board of Directors may, but is not obligated to, permit assessments to be paid in monthly, quarterly, or semi-annual installments. Other than the Declarant, no Owner may be exempted from liability, or otherwise withhold payment of assessments, for any reason whatsoever.

6.3. Uniform Rates of Assessment and Specific Assessments. Annual assessments and special assessments shall be fixed at one uniform rate for Detached House Lots and at a second uniform rate for Townhouse Lots. It is hereby contemplated that the uniform rate of assessments for Townhouse Lots will be greater than the uniform rate for Detached House Lots due to the increased maintenance obligations and expenses of the Association for Townhouse Lots.

Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments as follows:

(a) Except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility hereunder, any common expenses benefiting less than all of the Lots or significantly disproportionately benefiting all Lots may be specially assessed equitably among all of the Lots which are benefited according to the benefit received.

(b) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any Lot may be specially assessed against such Lot, including attorney's fees actually incurred by the Association in enforcing the Declaration, Bylaws or Association rules and regulations, regardless of whether or not an enforcement lawsuit has been filed.

(c) Other specific assessments against an Owner and Owner's Lot deemed reasonable by the Board.

6.4. Computation of Operating Budget and Assessment. Prior to the beginning of each new fiscal year, the Board of Directors shall (1) prepare a budget covering the estimated expenses of the Association for the upcoming new fiscal year and shall fix in the budget the amount of the annual assessment for the upcoming new fiscal year for the Detached House Lots and the Townhouse Lots, and (2) deliver a copy of the budget to each Owner at least thirty days prior to the beginning of the new fiscal year. The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of expenses on which the Board may base the annual assessments. The Board may, but is not obligated to, permit the annual assessments to be paid in monthly, quarterly, or semi-annual installments. The fiscal year of the Association may be set by Board resolution or, in the absence thereof, shall be the calendar year.

The budget and the annual assessment for the Detached House Lots shall become effective unless disapproved by the majority of the total vote of the Detached House Lot Owners at a meeting of the Association membership within the first ninety days of the new fiscal year; said meeting may be the annual meeting of the members if the annual meeting is held during the first ninety days of the new fiscal year or may be at a special meeting requested in accordance with the Bylaws. The budget and the annual assessment for the Townhouse Lots shall become effective unless disapproved by the majority of the total vote of the Townhouse Lot Owners at a meeting of the Association membership within the first ninety days of the new fiscal year; said meeting may be the annual meeting of the members if the annual meeting is held during the first ninety days of the new fiscal year or may be at a special meeting requested in accordance with the Bylaws. If either (1) the Detached House Lot Owners or the Townhouse Lot Owner disapprove the budget within the first ninety days of the new fiscal year as provided herein, or (2) the Board fails for any reason to either (a) prepare a budget and fix the amount of the annual assessments for the new fiscal year or (b) deliver the budget to the members, as provided herein, then the budget and annual assessments in effect for the then current fiscal year shall continue for the upcoming new fiscal year.

In the event the annual assessment for the Detached House Lots or the Townhouse Lots is insufficient to cover the actual common expenses of the Association during any fiscal year, the Board of Directors, upon ten days notice to all of the Owners, may increase the annual assessment for the Detached House Lots and/or the Townhouse Lots during such fiscal year to cover the shortfall.

6.5. Reserve Budget and Reserve Account. The Board may prepare an annual or multi-year reserve budget which may take into account the number and nature of replaceable assets, the expected life of such assets, and the expected repair or replacement costs of the assets. The Board may establish a reserve account for such expected repair or replacement costs, and may fund the reserve account from collected assessments. The reserve budget shall not operate as a limitation on the expenditures of funds in the reserve account, but, rather, the Board may spend funds in the reserve account as deemed reasonable by the Board.

6.6. Special Assessments. The Board may levy a special assessment against the Detached House Lots and/or the Townhouse Lots. Prior to becoming effective, any special assessment against the Detached House Lots must be approved by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of a majority of the total votes of the Detached House Lot Owners, and any special assessment against the Townhouse Lots must be approved by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of a majority of the total votes of the Townhouse Lot Owners.

6.7. Capital Contribution Assessments (Initiation Fee). Upon the conveyance of ownership of a Lot from the Declarant and from all Owners of the Lot thereafter, including resales, a capital contribution assessment (an initiation fee) of \$300.00 shall become due and payable to the Association by each new Owner. The initiation fee shall not be deemed to be an advance payment of any assessment and may not be paid in lieu of any assessment. The initiation fee shall be the personal obligation of the new Owner and shall constitute a lien against the Lot. Notwithstanding anything to the contrary herein, no initiation fee shall be due as a result of a conveyance of a Lot to an Owner's spouse, a person cohabitating with the Owner, or a corporation, partnership, company, or legal entity in which the Owner is a principal, and no initiation fee shall be due from any Person who takes title through foreclosure upon the lien of any first priority Mortgage covering the Lot or the lien of any secondary purchase money Mortgage covering the Lot.

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

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

(b) If partial payment of an assessment, fine, or charge is made, the amount received may be applied by the Board, in respective order, to post-judgment attorney's fee from any prior judgment, if any, then to costs and attorney's fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments.

(c) If an assessment, fine, or charge due from an Owner remains delinquent and unpaid for more than fifteen (15) days from the date due, and if the Board of Directors has permitted the assessment to be paid in monthly, quarterly, or semi-annual installments, then a notice of delinquency may be given to that Owner stating that if the unpaid assessment or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that owner's unpaid installments of the assessment. If the Owner fails to pay all amounts currently due within ten (10) days of the date

of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the assessment in installments, unless reinstated in the Board's discretion. The notice of acceleration provided herein may be included in a complaint filed against an owner for unpaid assessments and charges.

(d) If an assessment, fine, or charge remains unpaid more than thirty (30) days after the due date, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, and Georgia law, including reasonable attorney's fees actually incurred (and including post-judgment attorney's fees from any prior judgment, if any).

(e) If an assessment, fine, or charge remains unpaid more than thirty (30) days after the due date, the Association, acting through the Board, shall have the right to suspend water or other utility services to the Lot, if any, including cable television, paid for as a common expense by the Association. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Lot. The water or other utility services shall not be required to be restored until all amounts owed by the Owner have been paid in full and the expenses to disconnect and/or reconnect the water or utility service have been paid in full. An Owner whose utility or service has been suspended hereunder shall not be entitled to use any such utility or service from any source, and any such unauthorized use shall be considered a theft of services. This provision shall not require the Association to pay for any such utilities as a common expense.

(f) A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any assessment or charge, and the member shall be ineligible to vote on any matter until the member's account balance has been paid in full.

6.9. Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date of the first conveyance of ownership of a Lot with a Detached House or Townhouse constructed thereon from Declarant to any other Person.

6.10. Declarant's Obligation for Assessment. Declarant shall not be liable for the payment of assessments on its unsold Lots. However, Declarant may, but shall not be obligated to, elect to loan to the Association the difference between the amount of assessments levied on the Lots subject to assessments and the amount of the Association's actual expenditures (hereafter referred to as a "Loan"). Each Loan shall be repaid from the Association to the Declarant upon notice to the Association from the Declarant. A Loan may be evidenced by one or more promissory notes from the Association in favor of the Declarant.

6.11. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be

entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten dollars (\$10.00) or such higher amount as may be authorized under Georgia law, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

ARTICLE VII

MAINTENANCE RESPONSIBILITY

7.1. Association's Responsibility. The Association shall maintain the following:

(a) the Common Property; provided, however, the Association shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners and Persons, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect to the use and operation of, the Common Property, including any of the improvements, fixtures, and facilities thereon. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the Common Property to continuously inspect same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Property, including any of the improvements, fixtures, and facilities thereon, shall use, enjoy, and visit the same at their own risk and peril. The Association shall not be liable for any damage, including personal injury or property damage, caused by or stemming from the Common Property;

(b) exterior surfaces of the Townhouses, including any siding, brick, and trim, and the roofs, gutters, and downspouts of the Townhouses (excluding exterior pressure washing which shall be the obligation of the Townhouse Lot Owner as provided in Section 7.2, below);

(c) all mowing, edging, and trimming on the Townhouse Lots;

(d) all landscaping, planting beds, bushes, and trees on the Townhouse Lots, except any landscaping, planting beds, bushes, and trees installed or planted by or on the behalf of a Townhouse Lot Owner;

(e) all water and sewer pipes or facilities located on the Common Property (until such time as accepted by a municipality, other government agency, or utility);

(f) any street (until such time as accepted by a municipality or other government agency) and any street lights (until such time as accepted by a municipality, other government agency, or utility); and

(g) the Association shall obtain and maintain a termite bond on the Townhouses.

In the event any item which is the Association's obligation to maintain is damaged or destroyed as a result of the willful or negligent act or omission of an Owner, Occupant of the Owner's Lot, or a guest of an Owner or Occupant, such Owner shall be liable for the costs of the repair or reconstruction.

The Association shall not be liable for any damage, including personal injury or property damage, caused by or stemming from the Association's failure to maintain or repair, or properly maintain or repair, any item for which it has the maintenance and/or repair obligation as set forth herein.

7.2. Owner's Responsibility.

(a) Townhouse Lots. Other than as provided in Section 7.1, above, each Townhouse Lot Owner shall maintain and keep the Owner's Townhouse Lot and Townhouse in good repair, including, but not limited to the following:

- (1) pressure washing of exterior surfaces, including siding, shutters, downspouts, and gutters;
- (2) driveways, garages, garage doors, air conditioning units, windows, window casings, exterior doors, doorways, doorsteps, decks, balconies, patios, utility boxes, and mailboxes;
- (3) party walls as provided in Article VIII of this Declaration;
- (4) any landscaping, planting beds, bushes, and trees installed or planted by or on the behalf of the Townhouse Lot Owner;
- (5) keeping the Townhouse Lot free of debris and rubbish;
- (6) any sidewalk on or adjacent to the Townhouse Lot; and
- (7) any chute, flue, duct, wire, water line, sewer line, conduit, or improvement which lies partially within and partially outside of the designed boundaries of a Townhouse Lot and which serves only that Townhouse Lot.

(b) Detached House Lots. Each Detached House Lot Owner shall maintain and keep the Owner's Lot and all improvements thereon, including the dwelling, in good repair, condition, and order, including, but not limited to, exterior painting, repairs, mowing, edging, weeding, trimming, and keeping planting beds in good condition and free of weeds. In addition, each Detached House Lot Owner shall maintain any sidewalk on or adjacent to the Detached House Lot and shall maintain the public right of way located between the Owner's Lot and the

curb of the street(s) bordering such Lot. Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Each Detached House Lot Owner shall perform the Owner's responsibility hereunder in such manner so as not to unreasonably disturb other Owners.

(c) Failure to Maintain. If the Board determines that a Owner has failed or refused to discharge properly the Owner's obligation with regard to the maintenance of the Owner's Lot, Detached House, or Townhouse, then the Association may give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board. No notice shall be required if the Board determines and an emergency exists. Unless the Board determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be an assessment and lien against the Owner and the Lot.

If, during the course of performing the maintenance of an Owner's Lot, the Association discovers that maintenance, repair, or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair, or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's expense without prior notice to the Owner.

The Board may alternatively enforce this Section through monetary fines against the Owner or Occupant of the Lot, and each day the maintenance, repair, or replacement is not completed shall constitute a separate violation for which fines may be assessed on a daily basis.

ARTICLE VIII

PARTY WALLS

Each wall which is built as part of the original construction of the Townhouses and placed on the property line dividing Townhouse Lots shall constitute a party wall. The costs of maintenance, repair, or reconstruction of a party wall shall be shared equally by the Townhouse Lot Owners whose Townhouses contain the party wall; provided, however, in the event of damage or destruction to a party wall caused by the willful or negligent act or omission of a Townhouse Lot Owner, Occupant of such Owner's Townhouse Lot, or a guest of such Owner or Occupant, such Townhouse Lot Owner shall be solely liable for the repair or reconstruction of the party wall, including any insurance deductible. To the extent not inconsistent with this Article, the general

rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions shall apply thereto.

ARTICLE IX

ARCHITECTURAL CONTROLS.

9.1. Architectural Standards. No Owner, Occupant, or any other Person may make any exterior change, alteration, modification (including exterior painting), or construction on a Lot, nor erect, place or post any thing or object which may affect the appearance of a Lot (including, but not limited to, any playground equipment, basketball net, storm door, exterior sculpture, yard art, or fountain), nor place any object in any window which is visible from the exterior of the dwelling, nor remove any tree with a three inch or greater diameter trunk measured at ground level, nor change the grade or slope of a Lot, without first obtaining the written approval of the Architectural Control Committee ("ACC"). In addition, all landscape borders or decorative borders on a Lot, other than rock or field stone borders and black plastic borders not extending more than four inches above the ground, shall require the prior written approval of the ACC.

The standard for approval of all improvements hereunder shall include, but not be limited to: (1) aesthetic consideration, (2) materials to be used, (3) compliance with the Community-Wide Standard, this Declaration, or design standards which may be adopted by the ACC or Board, (4) harmony with the external design of the existing dwellings, Lots and structures, and the location in relation to surrounding dwellings, structures and topography, and (5) any other matter deemed to be relevant or appropriate by the ACC.

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require. If the ACC fails to approve, conditionally approve, or to disapprove such application within forty-five (45) days after the application and such information as the ACC may reasonably require shall have been submitted, its approval will not be required and this Article shall be deemed complied with, unless such construction, modification or improvement otherwise is in violation of the Declaration, the Bylaws, the design standards, the Association's rules and regulations, or applicable zoning ordinances.

The ACC shall be the sole arbiter of the application and may withhold approval for any reason whatsoever, including purely aesthetic considerations. The Association, acting through the Board, shall be entitled to stop any construction or modification which is not in conformance with approved plans. The ACC may publish design standards for exterior alterations or additions, and any request in compliance therewith shall be approved.

9.2. Architectural Control Committee.

(a) So long as the Declarant owns any property described in Exhibit "A" or Exhibit "B," for development or sale, the Declarant shall be the sole member of the ACC and shall have the exclusive authority to administer and enforce architectural controls under this Article. Declarant's rights under this Article may be assigned in whole or in part.

(b) Upon the expiration or assignment of Declarant's authority to control architectural review for all or a portion of the Community, the Board of Directors shall appoint the members of the ACC. The ACC shall thereafter constitute a standing committee of the Association, and the ACC shall consist of the Board unless the Board delegates to other persons the authority to serve on the ACC. The chairperson of the ACC shall be a Board member. The ACC shall have the authority to select and employ professional consultants to assist it in discharging its duties, the cost of such consultants to be paid by the Owner of any Lot for which an application has been submitted for approval. The Owner of any such Lot shall be responsible for paying the full costs of each review, whether or not the submitted application is approved by the ACC, and the ACC may require payment of all such costs prior to approval of the application. The ACC also may charge reasonable fees to cover the cost of review or inspections performed hereunder. At any time during the review process, so long as the Declarant owns any property described in Exhibit "A" or "B," the Declarant shall have the power to veto any decision taken by the ACC.

9.3. Appeal. In the event the ACC disapproves any application or part thereof, an Owner shall have the right to appeal the ACC's decision to the Board of Directors. The Board shall rule on the appeal within thirty (30) days of receiving written notice requesting an appeal from the Owner. In ruling on the appeal, the Board shall consider all relevant materials presented to it by either the Owner or the ACC, the decision of the ACC, and the application of the Owner to the ACC. The Board of Directors shall have the final authority to approve, disapprove, or conditionally approve or disapprove the application of the Owner. If the Board does not receive written notice from the Owner by certified mail requesting an appeal within fourteen (14) days from the date of the ACC's notice to the Owner of its decision, the decision of the ACC shall become final and all rights of appeal shall terminate and thereafter be void. All decisions of the Declarant-controlled ACC shall be final, and there shall be no appeals of decisions of the Declarant-controlled ACC.

9.4. Limitation of Liability. Review and approval of any application pursuant to this Article may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board nor the ACC shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Declarant, Association, the Board, the ACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design, or quality of approved construction on or modifications to any Lot, nor may any action be brought against the

Declarant, Association, the Board, the ACC, or any member thereof, for any such injury, damage, or loss.

9.5. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board and the ACC will change from time to time and that interpretation, application, and enforcement of the architectural standards may vary accordingly. The approval of either the Board or the ACC of any proposals, plans, and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board or the ACC, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

9.6. Enforcement. Any construction, alteration, or other work done in violation of this Article, the Declaration, the Bylaws, the design standards or any applicable zoning regulations shall be deemed to be nonconforming. Upon written request from the Board, a violating Owner shall, at the Owner's sole cost and expense, remove such nonconforming construction, alteration, or other work and restore the property to substantially the same condition as existed prior to such construction, alteration or work. Should the Owner fail to do so, the Board or its designees shall have the right, in addition to all other available remedies, to enter the property, remove the violation and restore the property, or obtain a court order compelling the violating Owner to do so. All costs thereof, including reasonable attorney's fees, may be assessed against such Lot, regardless of whether or not litigation is filed.

In addition to the above, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Article and its decisions or those of the ACC. All costs of any such action, including reasonable attorney's fees, may be assessed against such Lot. Furthermore, the Board shall have the authority to record in the Cherokee County, Georgia land records notices of violation of the provisions of this Article. The Board may also pursue any other enforcement option set forth in this Declaration.

9.7. Commencement and Completion of Construction All improvements approved by the ACC hereunder must be commenced within one year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. Additionally, except with written ACC approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the ACC hereunder shall be completed within 90 days of commencement. This Article shall not apply to any construction of modification performed by or on the behalf of the Declarant.

9.8. Licensed Contractor Requirement. All work, including but not limited to, construction, renovation, and repair, to any Lot, including to the exterior or interior of a

Townhouse or Detached House, shall be performed by a licensed contractor to the extent the contractor is required to be licensed by the State Licensing Board for Residential and General Contractors.

ARTICLE X

USE RESTRICTIONS

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants, and Occupants comply with all provisions of this Declaration, the Bylaws, and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants, or Occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants, or Occupants.

10.1. Residential Use. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within that dwelling so long as (1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling; (2) the business activity does not involve visitation of the Lot by employees, clients, customers, suppliers, or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary parcel delivery services (U.P.S., Federal Express, etc.); (3) the business activity conforms to all zoning requirements for the Community; (4) the business activity does not increase traffic in the Community; (5) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (6) the business activity 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, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (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 therefor. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or

business within the meaning of this Article. The activities of the Declarant shall not be subject to this Section.

10.2. Number of Occupants.

(a) The maximum number of occupants in a dwelling on a Lot shall be limited to two (2) people per bedroom in the dwelling as originally constructed. "Occupancy," for purposes hereof, shall be defined as staying overnight in a dwelling for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Act or any amendments thereto.

(b) If an Owner of a Lot is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the natural person(s) who will occupy the dwelling on the Lot. The designated person(s) to occupy the dwelling may not be changed more frequently than once every six (6) months.

10.3. Vehicles and Parking. Each Townhouse Lot shall include two (2) driveway parking spaces and two (2) garage parking spaces. No Owner or Occupant may park more than two (2) vehicles on the driveway. Vehicles may only be parked in garages, driveways, or other areas authorized in writing by the Board. Vehicles shall not be parked on any lawn, yard, or street (including private streets and public streets within the Community). This covenant shall be specifically deemed to touch and concern the use of the Lots within the Community.

Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. Each garage should be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible.

Disabled and stored vehicles are prohibited from being parked in the Community except in garages. For purposes of this Section, a vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable. A vehicle shall be considered "stored" if it remains in a location, other than in a garage, without prior written Board permission, for fourteen (14) consecutive days or longer or if it is covered for more than two (2) consecutive days with a car cover or tarp.

Boats, trailers, trucks with a load capacity of one (1) ton or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes or tool racks), and vehicles with commercial writings on their exteriors are prohibited from being parked in the Community, except in garages or other areas designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on a Lot or the Common Property during normal business hours for the purpose of serving the Lot or the Common Property; provided,

that, without the written consent of the Board, no such vehicle shall be authorized to remain on a Lot or the Common Property overnight or for any purpose except serving a Lot or the Common Property.

If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's rules and regulations, the Board may send a notice to the vehicle owner or user, or place a notice on the vehicle, specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation and shall include the name and telephone number of the person or entity which will do the towing or booting. If twenty-four (24) hours after such notice is placed on the vehicle, or three (3) days after the notice has been sent to the owner, the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot, is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed or booted in accordance with this Section, neither the Association nor any director, officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

10.4. Pets. No reptile, bird, horse, rabbit, fowl, poultry, cattle or livestock of any kind (except dogs, cats and generally recognized household pets) may be kept on any Lot or on any portion of the Community. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors in unfenced areas. Dogs may not be left unattended while leashed or tethered to any post, tree, or object. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on a Lot without prior written ACC approval.

Feces left by any pet on the Common Property, on any Lot, or in any dwelling, including the pet owner's Lot or dwelling, or anywhere in the Community must be removed promptly by the owner of the pet or the person responsible for the pet. Fines may be imposed to enforce this provision.

No potbellied pigs may be brought into or kept in the Community at any time. No dog determined in the sole discretion of the Board to be a dangerous dog may be brought into or kept in the Community at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, must

be permanently removed from the Community upon seven (7) days written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.

Any Owner or Occupant who keeps or maintains any pet on any portion of the Community shall be deemed to have indemnified and agreed to hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Community.

10.5. Fences. No chain link fence or cyclone fences may be placed in the Community, except by the Declarant. Fences must first be approved by the ACC before the commencement of any installation of the fence.

(a) Detached House Lots. No fences or screening of any kind shall be erected or maintained on any Detached House Lot without the prior written consent of the ACC as to location, material and height, and the decision of the ACC to approve or reject a fence shall be conclusive. Nothing herein contained shall (i) prevent placement of fences by the Association on any Common Property or (ii) affect or limit the rights of Declarant to erect privacy fences. The ACC may require an application be submitted setting forth the proposed location, material and height of all such fences.

(1) The ACC's review of all fences for approval shall assure that such fences adhere to the following standards and requirements unless the applicant can demonstrate to the satisfaction of the ACC that strict adherence to such standards and requirements would (a) create an undue hardship on the applicant; and (b) approval would be in the best interests of the subdivision, in which case the ACC is authorized to approve fencing which does not strictly conform to the requirements herein.

(i) Maximum height of 48" for full perimeter fencing.

(ii) Fencing shall only enclose the rear yards of any residence. Rear yard fencing shall be full perimeter and no fencing shall be erected or maintained on any Lot between the rear of the residence constructed upon such Lot and the street upon which such Lot fronts. Fencing must start at the rear corners of the residence constructed. Fencing must be within four inches (4") of the Lot lines and Lot corners. With respect to corner lots, fencing along the side of the rear yard facing the street shall not be placed any nearer to said street than four inches (4") of the building line limit established by the subdivision plat. Lots may have exceptions at the sole discretion of the ACC.

(iii) All fencing shall be:

wrought iron; or (a) Wrought iron or aluminum simulated

(b) Picket style made of wood or vinyl.

materials: (iv) All fencing shall be made only of the following

wrought iron; or (a) Wrought iron or aluminum simulated

(b) Cedar or wolmanized (treated wood) or vinyl. Cedar, wolmanized (treated wood) or vinyl board fencing may have a picket width up to a maximum of six inches (6"). The minimum open space between pickets must be three inches (3") regardless of the picket width.

(v) All fences shall be installed with the good side facing out.

(vi) The ACC, in its discretion, may, but shall not be obligated to, require that all Lots be professionally surveyed to assure proper fence locations prior to installation thereof.

(vii) All wood fences shall remain in their natural state, that is, they cannot be painted a color.

(viii) The ACC may allow a variance from these fence requirements for swimming pool and patio privacy fencing as necessary in the ACC's discretion to comply with all laws and code and to prevent hardship.

(ix) All posts shall be anchored in a base of concrete at least one (1) foot six (6) inches into the soil.

(b) Townhouse Lots. No fence or screening of any kind whatsoever, including any electric fence or "invisible fence" for the confinements of pets, shall be allowed to be erected or maintained on any Townhouse Lot, except a wooden privacy fence may be erected along the property line between two adjoining Townhouses at the party wall; provided that such wooden fence shall be twelve feet (12') long and five feet (5') high pressure treated wood with a one foot (1') lattice top to total six feet (6') in height. Such fence must be attached to the rear of the Townhouse and must be kept in good repair with the cost of any maintenance to be borne by the owner of the fence.

10.6. Window Treatments. Unless otherwise approved in writing by the Board, all windows in a dwelling that face toward the street shall have window treatments, and any portion

of any window treatment in a dwelling that is visible from outside of the dwelling shall be white or off-white in color. Sheets, blankets, towels, flags, and other such items shall not be placed in any window or in way used as window treatments.

10.7. Antennas and Satellite Dishes. No transmission antenna of any kind may be erected anywhere in the Community without written approval of the ACC. No satellite dish, direct broadcast satellite (DBS) antenna, or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Community, including a Lot. Satellite dishes and DBS and MMDS 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 authorized by the FCC, both as may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. Except as provided by this Section, no 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 outdoors on any portion of the Community, whether attached to a dwelling or structure or otherwise.

10.8. Abandoned Personal Property. Personal property is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission. Neither the Association nor any director, officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal and/or discard of the personal property after such twenty-four (24) hour period.

10.9. Use of Common Property. There shall be no obstruction of the Common Property, nor shall any vehicle or anything else be kept, parked or stored on any part of the Common Property without prior approval of the Board.

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

10.10. Prohibition of Nuisance and Noise. Noxious, destructive, offensive, or unsanitary activity shall not be carried on within the Community. No Lot Owner or Occupant may use or allow the use of the Lot or any portion of the Community at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved

Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Community. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

- (a) Any fighting, raucous behavior, or insobriety if such conduct can be heard in a dwelling on any other Lot;
- (b) The use of any alarm (except security, fire, or carbon monoxide detection), equipment, television, or devise which produces excessively loud sound if such sound can be heard in a dwelling on any other Lot;
- (c) Any threatening or intimidating conduct towards any resident, guest, or pet in the Community;
- (d) Any consistent dog barking that can be heard in a dwelling on any other Lot;
- (e) Any conduct which creates any noxious or offensive odor at any time if such odor can be detected in a dwelling on any other Lot; or
- (f) Any construction or similar activities which can be heard in a dwelling on any other Lot between the hours of 9:00 p.m. and 6:00 a.m. This provision shall not apply to any construction by or for Declarant.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator of this Section. The Board may, in its discretion, require any aggrieved Owner or Occupant to seek redress personally against the violator before the Association intervenes and commences enforcement action hereunder; provided, further, due to the general nature of violations of this Section, the Board may, in its discretion, elect that the Association not intervene or enforce this Section. No claim for any loss, damage or otherwise, and no defense of selective, arbitrary, or capricious enforcement, shall exist for any Person as a result of any decision by the Board not to enforce this Section.

10.11. Townhouse Decks. No Townhouse that has a rear portion immediately adjacent to Highway 5 shall have an elevated deck, patio, or accessory structure.

10.12. Signs. Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain in the Community without the prior approval of the Board or its designee, except that two (2) professional security signs not to exceed ten inches (10") by ten inches (10") each in size may be displayed on a Lot or from within a dwelling on a Lot and one (1) professionally lettered "For Sale" sign not to exceed twenty-four inches (24") by thirty-six inches (36") in size may be displayed on a Lot or from

within a dwelling on a Lot being offered for sale. The Board shall have the right to erect reasonable and appropriate signs on the Common Property on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time. No "For Lease" sign, "For Rent" sign, "Lease Purchase" sign, or political sign shall be allowed on a Lot without the approval of the Board. No "For Sale" signs or directional signs shall be permitted on the Common Property without the approval of the Board.

10.13. Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate on a Lot or in a dwelling. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. The Board may establish rules and regulations regarding the storage location of trash bags, trash cans, and receptacles and the placement of same for pick-up.

10.14. Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community, except in a dwelling or garage with the garage door shut. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and similar items may be kept outside of a dwelling.

10.15. Impairment of Dwellings and Easements. No Owner or Occupant shall undertake any act or work that will impair the structural soundness or integrity of another dwelling or impair any easement, nor do any act nor allow any condition to exist which will adversely affect other Lots or their Owners or Occupants.

10.16. Erosion Control. No activity which may create erosion or siltation problems anywhere in the Community shall be undertaken, except construction activities undertaken by Declarant or on its behalf.

10.17. Subdividing / Combining of Lots. No Lot may be subdivided into a smaller Lot. Lots may be only combined upon approval of the Declarant or the Board of Directors; provided, however, that each Lot after combining shall continue to be treated as separate Lots for purposes of this Declaration, including, but not limited to, continuing assessments against each Lot and one vote attributable to each Lot.

10.18. Garage Sales. No garage sale, yard sale, or similar activity shall be conducted in the Community without prior approval of the Board. The Board may additionally permit Community garage sale or yard sale days.

10.19. Holiday Decorations and Lights. Holiday decorations and lights may be displayed no more than thirty (30) days prior to the holiday for which they are intended and shall be removed within fifteen (15) days after the date of such holiday; provided, however, holiday decorations and lights may be displayed during the period beginning one week prior to Thanksgiving and ending on January 15 of the next calendar year.

10.20. Heating of Townhouses in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to the Townhouses, the thermostats within the Townhouses shall be maintained with the heat in the "on" position and at a minimum temperature setting of fifty-five (55°) degrees Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to, or does, reach thirty-two (32°) degrees Fahrenheit or below. Owners and Occupants shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair.

ARTICLE XI

LEASING

11.1. Definition. "Leasing," for purposes of the Declaration, is defined as the regular, exclusive occupancy of a Lot by any natural person or persons other than the Owner; provided, however, leasing shall not include exclusive occupancy by the spouse, child or parent of an Owner and shall not include the occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary dwelling.

11.2. Leasing Provisions. Leasing shall be governed by the following provisions:

(a) General. Lots may be leased only in their entirety; no fraction or portion may be leased. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. All leases shall be for a period of at least twelve months, except with written Board approval. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people who will occupy the Lot. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(b) Liability for Assessments and Compliance With Declaration, Bylaws, and Rules and Regulations. Any lease of a Lot in the Community shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by

existence of this covenant on the Lot. Any lessee, by occupancy of a Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Liability for Assessments. Lessee agrees to be personally obligated for the payment of all assessments and all other charges against the Lot or Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions of the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Lot Owner from any obligation, including the obligation for assessments, for which the Owner would otherwise be responsible.

When a Lot Owner who is leasing a Lot fails to pay any assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Lot Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon demand by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges, as lawfully determined and made payable during the remaining term of the lease and any other period of occupancy by lessee following such demand. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's demand to pay assessments or other charges to the Association, lessee shall be obligated to pay to the Association all late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent lessee would be required to make such payments to the Association if lessee were the owner of the premises during the term of the agreement and any other period of occupancy by lessee, and including all amounts paid by lessee to lessor following the date of such demand from the Board.

(2) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to insure compliance with the foregoing. Lessee acknowledges that the violation by lessee or any occupant living with lessee of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under the lease. Owner shall cause all occupants of the Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Board of the lessee's failure to do so. Unpaid fines shall constitute a lien against the Lot. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant

thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by lessee, any occupant, or any person living with lessee is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

(3) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the recreational facilities, and the Owner may not consecutively exercise such rights and privileges during the term of the lease.

ARTICLE XII

EASEMENTS

12.1. Easements for Encroachment and Overhang.

(a) There shall be an easement for encroachment and overhang between adjacent Lots and such portions of the Common Property adjacent to a Lot due to trees or the unintentional placement or settling or shifting of the dwellings or other improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point.

(b) There shall additionally be an easement for encroachment between adjacent Lots and such portions of the Common Property adjacent to a Lot for any chute, flue, duct, wire, water line, sewer line, conduit, load bearing wall, load bearing column, fence or other fixture or improvement which lies partially within and partially outside of the designed boundaries of a Lot, which serves only that Lot.

12.2. Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to the Owner's Lot, subject to the following provisions:

(a) the right of the Association to limit the number of guests of Lot 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, the Owner's family, tenants, guests, and invitees;

(b) the right of the Association to suspend the right of an Owner to use the recreational facilities in the Community for any period during which any assessment against the Owner or Owner's Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

(c) the right of the Association to borrow money as may be set forth in the Bylaws; provided, however, the lien and encumbrance of any such mortgage given by the Association against the Common Property shall be subject and subordinate to any rights, interests, options, easements, and privileges herein reserved or established for any Lot or Lot Owner;

(d) the right of the Association to grant permits, licenses, or easements across the Common Property; and

(e) the right of the Association to sell, transfer or convey any portion of the Common Property only upon the approval of two-thirds (2/3) of the total vote of the Association.

12.3. Easements for Utilities. There is hereby reserved to the Declarant, the Association, and the Owners an easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any Lot in the Community, including, but not limited to, gas, water, sanitary sewer, telephone and electricity. Such easement may only be exercised by the Owners for underground utilities or services. Should any party furnishing any such utility or service request an easement by separate recordable document, the Declarant or the Board on behalf of the Association shall have the right to grant such easement.

12.4. Easement for Entry.

(a) The Association. The Association shall have an easement to enter onto any Lot for emergency, security, safety, and for other purposes reasonably necessary for the proper maintenance and operation of the Community, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any violation of the Declaration, Bylaws, or rules and regulations of the Association and any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board. No entry into a dwelling shall be permitted without the expressed consent of the Owner.

(b) Adjacent Owners. There shall be an easement on each Lot for reasonable ingress and egress by or on behalf of the Owner of an adjacent Lot for the purpose of repair, maintenance, or replacement of improvements on such adjoining Owner's Lot. Such easement shall only be used during the hours of 8:00 a.m. to 6:00 p.m.

12.5. Easement for Construction and Sales. So long as the Declarant owns any property described in Exhibit "A" or Exhibit "B," for development or sale, the Declarant reserves an easement across the Community for Declarant and any builder approved by Declarant to maintain and carry on development activities upon such portion of the Community as Declarant may reasonably deem necessary. This easement shall include an easement for such facilities and activities which in the sole opinion of Declarant may be required, convenient, or incidental to the development, construction, and sales activities related to the property in or near the Community. This easement shall include, without limitation, the following:

(a) The right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in any portion of the Community as well as upon any Lot in the Community;

(b) The right to tie into any portion of the Community with driveways, parking areas, roads, and walkways;

(c) The right to tie into or otherwise connect and use (without a tap-on or other fee for doing so), replace, relocate, maintain, and repair any device which provides utility or similar services;

(d) The right to place directional or marketing signs on any portion of the Community, including upon any Lot or the Common Property; and

(e) The right to construct and operate business offices, signs, construction trailers, model homes, and sales offices incidental to its construction, development and sales activities.

12.6. Fence Easement. Declarant hereby reserves an easement to itself and the Association across any Lot which borders the perimeter of the Community and any Lot that borders or contains a portion of any water facility, detention pond, or retention pond for the purpose of erecting a fence. The Owner of a Lot on which any portion of a fence is located shall be responsible for the maintenance and repair of the fence as part of the Owner's maintenance obligations; provided, however, the Declarant or Association may, but is not obligated to, repair and maintain any fence installed by or on the behalf of the Declarant.

12.7. Drainage Easement. Declarant shall have an easement across the Community for the purpose of altering drainage and water flow across any property in the Community, including the Lots. This right shall include altering swales, installing drains, drainage ditches, pipes, inlets, and alerting, channeling, or piping waterflow. Rights exercised pursuant to this easement shall

be exercised with a minimum interference to the quite enjoyment of affected properties; provided, however, in the event the Declarant requires the removal of any fence or landscaping in its exercise of the easement rights set forth herein, the Declarant shall not be liable to any Owner or other Person for any damage thereto and shall not be required to return the fence or landscaping to its condition prior to such exercise of its easement rights set forth herein.

12.8. Easement for Entrance Sign and Landscaping. The Association shall have an easement over any portion of a Lot on which any entrance feature, including, but not limited to, the Community sign and landscaping, are located. The Association shall be solely liable for the maintenance, repair and replacement of the entrance features, landscaping, and annual flowers. The Association shall additionally have an easement for the installation and maintenance of utility and water lines across the Lot to the entrance features.

ARTICLE XIII

SALE OF LOTS

13.1. Grantor's Obligation for Notice. A Lot 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 (7) 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.

13.2. Grantee's Obligation for Notice. Within seven (7) days after receiving title to a Lot, the grantee of the Lot shall give the Board written notice of such ownership of the Lot. Upon failure of a Owner to give the required notice within the seven (7) day period provided herein, the Board may levy a fine against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining the Owner's identity.

ARTICLE XIV

INSURANCE

14.1. Property/Casualty Insurance. The Association shall obtain and maintain insurance for all insurable improvements on the Common Property, Townhouses, and Townhouse Lots. The Board shall utilize reasonable efforts to secure a property insurance policy providing "all risk" coverage in an amount equal to full replacement cost, before application of deductibles, of the Common Property, Townhouses, and Townhouse Lots. If "all risk" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Association's insurance policy may exclude improvements and betterments made by the Owners.

14.2. Liability Insurance and Directors' and Officers' Liability Insurance. The Association shall obtain and maintain liability insurance on the Common Property covering the Association and its members for all damage or injury, including bodily injury, death, and property damage, caused by the negligence of the Association or any of its members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The liability policy shall have a combined single limit of at least one million (\$1,000,000.00) dollars. The Association may, but shall not be required, to maintain liability insurance covering the Lots.

14.3. Individual Lot Owner Insurance.

(a) Townhouse Lots.

(1) Property/Casualty Insurance. In addition to the property/casualty insurance on the Townhouses and Townhouse Lots to be maintained by the Association as provided in Section 14.1 of this Article, each Townhouse Lot Owner may obtain any additional property/casualty insurance as the Owner may require.

(2) Liability Insurance. Each Townhouse Lot Owner shall carry liability covering the Owner's Townhouse Lot for all damage or injury, including bodily injury, death, and property damage, caused by the negligence of the Owner, unless the Association has obtained a liability policy covering the Townhouse Lots.

(a) Detached House Lots.

(1) Property/Casualty Insurance. Each Detached House Lot Owner shall carry "all-risk" casualty insurance, if reasonably available, or if not reasonably available, fire and extended coverage, on the Owner's Lot, dwelling and structures constructed thereon.

(2) Liability Insurance. Each Detached House Lot Owner shall carry liability covering the Owner's Detached House Lot for all damage or injury, including bodily injury, death, and property damage, caused by the negligence of the Owner.

The Board shall, upon request from an Owner, make available for review by the Owner a copy of the Association's insurance policies. Each Owner shall, within ten (10) days request from the Board, provide a copy of the Owner's insurance policies to the Association.

14.4. Premiums and Deductible on Association Policies. Premiums for all insurance obtained by the Association shall be a common expense of the Association. The premium for any insurance policy of the Association that disproportionately benefits the Townhouse Lots shall be included in the budget for the Townhouse Lots. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

14.5. Association Policy Terms. All such insurance coverage obtained by the Association shall be written in the name of the Association. Such insurance shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in Georgia.

(b) All policies on the Common Property shall be for the benefit of the Association and its members.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(e) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies should be reviewed annually by one or more qualified persons.

(f) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Board, the Association's manager, if any, the Owners and their respective tenants, servants, agents, and guests;

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

(3) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners, and a provision that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal due to any defect or conduct of any director, officer, or agent of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time for the required cure to be performed;

(4) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(5) that no policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days prior written notice to the Association.

14.6. Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Lot, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected party's portion of the total cost of repair, or otherwise as the Board determines equitable. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Lot separately or to each occurrence, each Owner shall be responsible for paying any deductible pertaining to the Owner's Lot. If any Owner fails to pay the deductible when required hereunder, then the Association may pay the deductible and assess the cost to the Owner.

14.7. Payment of Claims to Delinquent Townhouse Lot Owners. Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's policy for which the Association receives from the insurer payment for a loss sustained by a Townhouse Lot Owner who is delinquent in the payment of any assessment or charge owed to the Association, then the Association may retain and apply such proceeds to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

ARTICLE XV

REPAIR AND RECONSTRUCTION

15.1 General.

(a) Detached House Lots. Each Detached House Lot Owner covenants and agrees that, in the event of damage and destruction of the dwelling or structures on the Owner's Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged dwelling or structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration, unless a determination not to rebuild is made by the Lot Owner in cases of substantial damage or destruction. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. If the dwelling or structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

(b) Townhouse Lots and Common Property. In the event of damage to or destruction of all or any part of the Common Property or Townhouses as a result of fire or other casualty, unless eighty (80%) percent of the Owners vote not to proceed with the reconstruction

and repair of the structures, the Board or its agent shall arrange for and supervise the prompt repair and restoration of the structures. In the event of substantial damage or destruction, each institutional holder of a Mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Lot.

Promptly after a fire or other casualty causing damage to the Common Property or Townhouses, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Townhouse) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

15.2. Source and Allocation of Proceeds for Townhouse Reconstruction. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair to the Townhouses, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the additional costs shall be assessed, in the Board's discretion, against the Owners of the Townhouses damaged in proportion to the damage suffered. If there are surplus funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board for the benefit of the Townhouse Lots.

15.3. Plans and Specifications. Any such reconstruction or repair to any Detached House or Townhouse shall be substantially in accordance with the plans and specifications under which the Community was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original plans and specifications are approved by the ACC.

15.4. Encroachments. Encroachments which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Community was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

15.5. Construction Fund. The net proceeds of the insurance collected by the Association on account of a casualty and the funds collected by the Association from assessments on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair as set forth in this Article to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board

ARTICLE XVI

MORTGAGEE'S RIGHTS

16.1. Foreclosure. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the first Mortgage, it shall not be liable for assessments or charges by the Association chargeable to such Lot which became due prior to such acquisition of title. Such acquirer shall be responsible for all charges accruing subsequent to the passage of title.

16.2. Eligible Mortgage Holder. A Mortgage Holder shall become an Eligible Mortgage Holder if the Mortgage Holder provides to the Association in writing its name, address, and phone number, as well as the address of the Lot and name of the Lot Owner to which it holds a Mortgage; provided, however, a Mortgage Holder or any Person on behalf of a Mortgage Holder providing a HUD-1 Settlement Statement from a closing on a Lot shall not in itself be sufficient for the Mortgage Holder to become an Eligible Mortgage Holder. Upon becoming an Eligible Mortgage Holder, an Eligible Mortgage Holder shall be entitled to timely written notice of the following:

(i) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Owner of any other obligation under this Declaration which is not cured within sixty (60) days; or

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

16.3. Financial Statement. Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

16.4. Non-Impairment. Notwithstanding anything to the contrary herein contained, the provisions of this Declaration governing sales and leases shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

16.5. HUD/VA Approval. As long as the Declarant has the right to appoint and remove directors and officers of the Association, the following items shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either agency is insuring or guaranteeing the Mortgage on any Lot: (i) dissolution of the Association, (ii) annexation of property other than the Additional Property on Exhibit "B," or (iii)

dedication or conveyance of the Common Property to any party other than the Association, or mortgaging the Common Property.

ARTICLE XVII

AMENDMENTS

17.1. General Subject to Section 17.2 of this Article, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the Association members holding at least two-thirds (2/3) of the total vote of the Association. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and filed in Cherokee County, Georgia land records.

17.2. Approval By Declarant. Until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person, any amendment to the Declaration must be approved in writing by the Declarant prior to becoming effective; and during such time, Declarant shall have the unilateral right to amend the Declaration from time to time without the approval of the Association members. Declarant shall have the right to veto and reject any amendment to the Declaration until such time as all of the Additional Property described on Exhibit "B" has been annexed and subjected to this Declaration, or ten years from the Effective Date of this Declaration, whichever is earlier.

17.3. Georgia Property Owners' Association Act. After the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person, the majority of the then Board of Directors, without the approval of the Association members, may record an amendment to submit the Declaration to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq.

17.4. Limitation Period. If legal action is not instituted to challenge the validity of any amendment to the Declaration or Bylaws within one (1) year of the recording thereof in the Cherokee County, Georgia land records, then any such amendment shall be presumed to be validly approved and adopted. This limitation period shall not apply to any challenge by the Declarant.

ARTICLE XVIII

GENERAL PROVISIONS

18.1. Enforcement. In addition to any other enforcement right set forth within the Declaration or Bylaws, the Association, acting through the Board of Directors, shall have the right to enforce any violation of the Declaration, Bylaws or rules and regulations of the

Association by a proceeding at law or in equity, or as otherwise provided herein. Owners may enforce the Declaration against other Owners by a proceeding at law or in equity.

(a) Fines and Suspensions of Use. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, for any violation of the Declaration, Bylaws, or any Association rules and regulations. The Board shall further have the power to suspend the use of any Common Property for any violation of the Declaration, Bylaws, or any Association rules and regulations. If any Occupant violates the Declaration, Bylaws or Association rules and regulations and a fine is imposed, the fine may be imposed against the Owner and/or Occupant. The Board may establish and promulgate a fining schedule. The Board shall not impose a fine or suspend the right to use the Common Property, unless and until the Board has sent or delivered written notice to the Owner or Occupant as provided herein; provided, however, strict compliance with this notice provision shall not be required; substantial compliance shall be sufficient:

(1) Notice. If any provision of the Declaration or Bylaws or any Association rule or regulation is violated, the Board shall send the violating Owner or Occupant written notice identifying the violation and fine and/or suspension being imposed and advising the Owner or Occupant of the right to request a hearing before the Board to contest the violation or the fine and/or suspension or to request reconsideration of the fine and/or suspension. Fines and suspensions may not become effective until at least ten (10) days from the date of the notice (which time shall be extended as provided below in the event the Owner or Occupant requests and attends a hearing of the Board). In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per day basis without further notice to the Owner or Occupant.

(2) Hearing. If a written request for a hearing is received from the Owner or Occupant within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a Board meeting as a hearing affording the Owner or Occupant a reasonable opportunity to be heard, and no fines shall be imposed until after the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines or suspension.

(b) Suspension of Voting. A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any assessment or charge or during any period in which the member is in violation of the Declaration. The Association shall not be required to provide any notice to such member that the member's voting rights have been automatically suspended.

(c) Abatement and Self-Help. The Board or its designee may enter upon a Lot to exercise self-help in order to remove or abate any violation thereon of the Declaration; provided, however, the Board shall first provide the Owner of the Lot ten (10) days notice of the Board's intention to enter the Owner's Lot and provide the Owner with an opportunity to remove or abate the violation, provided further, such notice shall not be required if the Board determines that an emergency exists. All costs of self-help or of otherwise enforcing the Declaration, Bylaws or Association rules, including reasonable attorney's fees actually incurred, shall be assessed against the Owner, Occupant and/or Lot subject to the violation.

(d) Notice of Violation. The Association shall have the authority to record in the Cherokee County, Georgia land records a notice of violation identifying an uncured violation of the Declaration, Bylaws, or rules and regulations regarding a Lot.

(e) Enforcement Costs. The Owner or Occupant responsible for a violation shall be liable for all costs incurred in enforcement, including reasonable attorney's fees actually incurred, whether or not a legal proceeding in law or equity is filed in connection with the violation. The costs shall become a lien against the owner's Lot.

(f) Waiver. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

18.2. Duration. The covenants, conditions, restrictions, and easements within the Declaration shall run with and bind the property subject to this Declaration perpetually or as otherwise provided by Georgia law.

18.3. Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety in the Community; however, each Owner, for itself, himself or herself and its, his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. It shall be the responsibility of each Owner to protect its, his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

18.4. Dispute Resolution. Any Lot Owner or Occupant must give written notice to the Declarant or Board requesting a hearing with the Declarant or Board and attend such hearing to discuss amicable resolution of any dispute against the Declarant or Association, respectively, before that Owner or Occupant files any lawsuit against the Declarant, the Association, the Board, or any officer or director, or any agent of same. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance and resolve the dispute in an amicable fashion, and shall give the Declarant or Association a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Declarant or Association shall give notice of the date, time, and place

of the hearing to the Person requesting the hearing. The Declarant or Association shall schedule the hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the Person requesting the hearing.

18.5. No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status, or handicap.

18.6. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

18.7. Eminent Domain. If all or any part of the Common Property shall be taken or conveyed in lieu of or under threat of condemnation by any authority having power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five percent (75%) of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining Common Property to the extent land is available therefor.

18.8. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

18.9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision, which shall remain in full force and effect.


18.10. Preparer. This Declaration was prepared by John T. Lueder, The Lueder Law Firm, LLC, 2050 Marconi Drive, Suite 300, Alpharetta, Georgia 30005.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this 14th day of September, 2007.

DECLARANT:


McBRIDE & SON HOMES LAND DEVELOPMENT, INC.

BY:

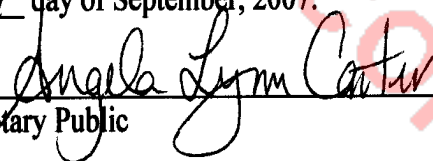


Jeffrey M. Berger, Secretary

Attest:



Sworn to and subscribed before me this 14th day of September, 2007.



Notary Public



EXHIBIT "A"

Andrews Tract less Out Parcel (McBride Property)

A tract of land situated in Land Lots 701, 702, & 703, 15th District, 2nd Section, Cherokee County, Georgia, the bearings of which are based on the State Plane Grid System (Georgia West Zone) and being more particularly described as follows:

Begin at a pipe marking the southeasterly corner of said Land Lot 703 and run S89°53'52"W for a distance of 53.38 feet to a rebar at the intersection of said line with the easterly right-of-way line of Georgia Highway 5 (60 foot right-of-way); thence along said right-of-way line for the following courses and distances: N04°21'45"W for a distance of 206.18 feet; northwesterly 981.43 feet along the arc of a curve, concave to the southwest, having a central angle of 57°05'32", a radius of 984.93 feet, and a chord bearing and distance of N32°54'31"W and 941.33 feet; N61°27'17"W for a distance of 246.77 feet; thence leaving said line, S75°22'45"E for a distance of 41.72 feet; thence N66°04'09"E for a distance of 54.74 feet; thence N27°31'04"E for a distance of 74.95 feet; thence northeasterly to easterly 163.00 feet along the arc of a curve, concave to the southeast, having a central angle of 71°09'28", a radius of 131.25 feet, and a chord bearing and distance of N63°05'48"E and 152.73 feet; thence S81°19'28"E for a distance of 104.45 feet; thence N08°40'32"E for a distance of 185.96 feet to a rebar at the intersection of said line with the northerly line of said Land Lot 703; thence S88°53'10"E along said line for a distance of 258.43 feet to a rebar set at the northeasterly corner thereof; said point also being on the westerly line of said Land Lot 702; thence N19°57'16"W for a distance of 67.59 feet along the westerly line of said Land Lot 702 to a rebar set at the northwesterly corner thereof; thence S88°57'07"E along the northerly line of said Land Lots 702 and 701 for a distance of 2,023.86 feet to a rebar on the northerly line of said Land Lot 701; thence S88°59'18"E for a distance of 237.16 feet to intersection of said line with the centerline of Barnes Creek; thence along the centerline of said creek for the following courses and distances: S29°17'31"W for a distance of 30.11 feet; S59°08'53"W for a distance of 39.10 feet; S10°23'39"W for a distance of 90.24 feet; S28°56'52"W for a distance of 64.46 feet; S35°03'22"W for a distance of 71.99 feet; S37°41'49"W for a distance of 46.04 feet; S55°11'50"W for a distance of 51.27 feet; S12°36'54"E for a distance of 34.63 feet; S36°05'38"W for a distance of 84.26 feet; S47°52'24"W for a distance of 84.80 feet; S37°25'43"E for a distance of 28.19 feet; S33°40'27"W for a distance of 31.47 feet; S32°05'12"W for a distance of 41.85 feet; S54°03'29"W for a distance of 96.86 feet; S38°03'09"W for a distance of 76.33 feet; S36°42'47"W for a distance of 40.22 feet; S80°54'44"W for a distance of 33.20 feet; S53°35'54"W for a distance of 63.04 feet; S56°33'33"W for a distance of 30.30 feet; S34°02'32"W for a distance of 54.58 feet; S42°28'46"W for a distance of 60.15 feet; S75°18'52"W for a distance of 43.79 feet; S30°42'00"W for a distance of 39.64 feet; S36°31'44"W for a distance of 73.84 feet; S47°56'54"W for a distance of 47.97 feet; S03°29'53"W for a distance of 32.38 feet; S68°06'07"W for a distance of 73.89 feet; S21°55'33"E for a distance of 60.72 feet; S44°29'19"W for a distance of 37.95 feet; S68°26'06"W for a distance of 84.11 feet; S70°20'22"W for a distance of 49.73 feet; S15°12'45"W for a distance of 20.35 feet; S60°27'51"W for a distance of 14.48 feet; N76°48'01"W for a distance of 17.73 feet; S37°44'40"W for a distance of 35.90 feet; S57°32'13"W for a distance of 40.97 feet; S75°44'17"W for a distance of 49.76 feet; S72°25'47"W for a distance of 95.85 feet; S63°02'06"W for a distance of 67.87 feet; N89°03'51"W for a distance of 29.17 feet; S06°23'45"E for a distance of 35.23 feet; S81°17'15"W for a distance of 34.55 feet; S39°11'21"W for a distance of 77.74 feet; S38°40'06"W for a distance of 20.43 feet to intersection of said line with the southerly line of said Land Lot 702; thence S89°56'39"W along said southerly line for a distance of 672.06 feet to the **Point Of Beginning**.

Containing 61.49 acres and being a portion of a Survey prepared by Ross Consulting Engineers, P.C., dated 12/15/05 (Job No: 05099) unto which reference is hereby made.

EXHIBIT "B"

Additional Property

Any property located within one (1) mile radius from any property included in Exhibit "A" of this Declaration.

COPY

EXHIBIT "C"

BYLAWS

OF

STONE CREEK COMMUNITY ASSOCIATION, INC.

COPY

THE LUEDER LAW FIRM, LLC

Attorneys

2050 Marconi Drive, Suite 300

Alpharetta, Georgia 30005

770-777-8334

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BYLAWS
OF
STONEY CREEK COMMUNITY ASSOCIATION, INC.

ARTICLE I

GENERAL

1.1. Applicability. These Bylaws provide for the self-government of Stoney Creek Community Association, Inc., in accordance with the Declaration of Covenants, Conditions, Restrictions and Easements for Stoney Creek, recorded in the Cherokee County, Georgia land records ("Declaration").

1.2. Name. The name of the corporation is Stoney Creek Community Association, Inc., ("Association"), including its successors and assigns.

1.3. Definitions. The terms used herein shall have meanings as are specified in Article I of the Declaration.

1.4. Membership. Every Owner shall be deemed to have a membership in the Association. This is not intended to include Mortgagees or other Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast for each Lot owned.

1.5. Voting. Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. A member's right to vote shall automatically be suspended during any period in which a member is more than thirty (30) days delinquent on any assessment or charge.

1.6. Entity Members. In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary, or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner of the Lot. The membership rights of an Owner which is a corporation, partnership, or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

1.7. Purpose. The Association shall have the responsibility of administering the Stoney Creek Community, establishing the means and methods of collecting the assessments in accordance with the Declaration, and performing all of the other acts that may be required to be performed by the Association pursuant to the Declaration and Georgia Nonprofit Corporation Code. Except as to those matters which the Declaration or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors.

1.8. Electronic Communications.

(a) Records and Signatures. Whenever the Declaration or these Bylaws require that a document, record or instrument be written or in writing, the requirement is deemed satisfied by an electronic record pursuant to the Georgia Electronic Records and Signatures Act. Whenever the Declaration or these Bylaws require a signature on a document, record or instrument, an electronic signature, in accordance with the Georgia Electronic Records and Signatures Act, satisfies that requirement.

(b) Verification and Liability for Falsification. The Board of Directors may require reasonable verification of any electronic signature, document, record, or instrument. Absent or pending verification, the Board of Directors may refuse to accept any electronic signature or electronic record that, in the Board's sole discretion, is not authentic. Neither the Board of Directors nor the Association shall be liable to any Owner or any other Person for accepting or acting in reliance upon an electronic signature or electronic record that the Board of Directors reasonably believes to be authentic, or rejecting any such item which the Board of Directors reasonably believes not to be authentic. Any Owner or Person who negligently, recklessly or intentionally submits any falsified electronic record or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees actually incurred and expenses incurred as a result of such acts.

ARTICLE II

MEETINGS OF MEMBERS

2.1. Annual Meetings. The annual meeting of the members shall be held each year with the date, hour, and place to be set by the Board of Directors.

2.2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President or by request of any two (2) or more directors, or upon written petition of at least twenty-five (25%) percent of the total vote of the Association membership. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit the petition to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in

accordance with these Bylaws. Members petitioning for a special meeting may request the date, time and location of the meeting, but such request shall not be binding upon the Association.

2.3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to each Association member a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting. All notices shall state the date, time, and location of the annual or special meeting. If any member wishes notice to be given to an address other than the Owner's Lot address, the member shall designate such other address by written notice to the Secretary. The mailing or delivering of a meeting notice as provided in this Section shall constitute proper service of notice.

2.4. Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any Association meeting, either before or after such meeting. Attendance at a meeting by a member, whether in person or represented by proxy, shall be deemed waiver by such member of notice of the date, time and location 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 shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

2.5. Quorum. The presence, in person or by proxy at the beginning of the meeting, of members entitled to cast ten percent (10%) of the total vote of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is closed and shall not need to be reestablished. Members whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

2.6. Adjournment. Any meeting of the members may be adjourned for periods not exceeding ten (10) days by vote of a majority of the members at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

2.7. Proxy. Any member entitled to vote may do so by written proxy duly executed by the member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and delivered to the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, U.S. Mail, facsimile transmission, email, or other electronic means to the Secretary in care of any director or the Association's property manager, if any. Proxies may be revoked only by written notice delivered to the Secretary, as provided herein, except that the presence in person by the proxy giver at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

2.8. Action Taken Without a Meeting. At the Board's discretion, any action that may be taken by the Association members at any annual or special meeting may be taken without a meeting if the Board of Directors delivers a ballot or consent form to every member entitled to vote on the matter. The Board may deliver ballots and consent forms by personal delivery, U.S. Mail, facsimile transmission, email, or other electronic means. Members shall deliver their vote by ballot or consent form by whatever means is specified by the Board.

(a) Ballot. A ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter, other than election of directors; and (iii) specify the time by which a ballot must be received by the Association in order to be counted. A ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by consent shall be valid only when the number of consents received equals or exceeds the requisite majority of the voting power for such action. Executed consents shall be included in the minutes or filed with the Association's records. If an action is approved by written consent, the Association shall notify the members of the approval.

2.9. Order of Business. At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration or these Bylaws.

ARTICLE III

BOARD OF DIRECTORS

3.1. Composition. The affairs of the Association shall be governed by a Board of Directors composed of five (5) persons. The directors (other than directors appointed by the Declarant) shall be Owners of Lots or the spouse of an Owner; provided, however, no Owner and his or her spouse or co-Owner may serve on the Board at the same time.

3.2. Election and Term of Office. The Declarant shall have the right to appoint and remove directors and officers of the Association until the earlier of the following to occur: (a) seven years from the Effective Date of the Declaration; (b) the date on which ninety percent (90%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person; or (c) the voluntary surrender by Declarant, in writing, of the

authority to appoint and remove the Association's directors and officers. The Declarant shall thereafter retain the right to veto any action of the Board of Directors until such time as all of the Additional Property described on Exhibit "B" of the Declaration has been annexed and subjected to the Declaration, or ten years from the Effective Date of the Declaration, whichever is earlier.

Upon the termination of the Declarant's right to appoint and remove directors, all Association members eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. Those natural persons receiving the most votes shall be elected to the number of positions on the Board to be filled. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. There shall be no cumulative voting. Voting for election of Board members shall be by secret written ballot (unless dispensed by unanimous consent at the meeting at which such voting is conducted). All directors shall be elected for one (1) year terms and shall hold office until their successors are elected. The newly elected Board shall meet within ten (10) days following the meeting at which the election occurred for the purpose of appointing officers and any other business that comes before the Board.

3.3. Nomination. Nomination for election to the Board shall be made from the floor at the meeting. Nominations also may be made by a nominating committee, if appointed by the Board.

3.4. Removal of Directors. At any valid regular or special Association meeting, any one or more directors may be removed with or without cause by a majority of the total vote of the Association members and a successor may then and there be elected to fill the vacancy created. In addition, any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings or is more than sixty (60) days past due in the payment of any assessment or charge may be removed by the vote of a majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and shall be given an opportunity to be heard at the meeting.

3.5. Vacancies. Vacancies on the Board caused by any reason, except the removal of a director by vote of the membership as provided in Section 3.4 of this Article, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any Board meeting. The successor selected shall hold office for the remainder of the term of the director being replaced.

3.6. Compensation. Directors shall not be compensated for services. However, directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon Board approval of such expenses. Directors also may be given nominal gifts or tokens of appreciation by the Association for recognition of services performed not to exceed a value of \$100.00 per calendar year. For purposes hereof, reasonable food and beverages purchased for Board meetings shall not be considered compensation.

3.7. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided the director's interest is disclosed to the Board and the contract is approved by a majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at the meeting at which the proposed contract is discussed, but the director must leave the room during the discussion on such matter.

3.8. Regular Meetings. Regular Board meetings may be held at such time and place as determined by the Board, but at least once every three (3) months.

3.9. Special Meetings. Special Board meetings may be called by the President on three (3) days notice to each director given by mail, in person, by telephone, by facsimile transmission, or by email, which notice shall state the time, date, location, and purpose of the meeting. Special Board meetings shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice upon the written request of at least two (2) directors.

3.10. Waiver of Notice. Any director at any time, in writing, may waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

3.11. Quorum and Conduct of Meetings. The President shall preside over all Board meetings, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. The presence of directors entitled to cast one-half of the votes of the Board shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

3.12. Open Meetings. All Board meetings shall be open to all Association members, but members other than directors may not participate in any discussion or deliberation unless expressly authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, delinquent assessments, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.13. Action Without a Meeting. Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent in writing to such action. The written consents must describe the action taken. The written consents shall be

filed with the minutes of the Board. The written consent may be by email or other electronic means; a copy of the consents shall printed and filed with the minutes of the Board.

3.14. Powers and Duties. The Board of Directors shall have the right and authority, in addition to and not in limitation of any other right it may have, to:

(a) make and to enforce reasonable rules and regulations governing the use of the Common Property;

(b) enforce the Declaration, Bylaws, and rules and regulations of the Association by imposing reasonable monetary fines and suspending use and voting privileges. These powers, however, shall not limit any other legal means of enforcing such documents or provisions by either the Association or, in an appropriate case, by an aggrieved Owner;

(c) grant permits, licenses, utility easements, and other easements, permits or licenses under, through or over the Common Property;

(d) control, manage, operate, maintain, replace and, in the Board's discretion, alter, or improve all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration;

(e) deal with the Common Property in the event of damage or destruction as a result of casualty loss, condemnation, or eminent domain, in accordance with the provisions of the Declaration;

(f) represent the Owners in dealing with governmental entities on matters related to the Common Property.

(g) open a bank account or other financial accounts on behalf of the Association and designating the signatories required;

(h) make or contract for the making of repairs, additions, and improvements to, or alterations of the Common Property in accordance with the other provisions of the Declaration and these Bylaws;

(i) obtain and maintain insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof as an expense of the Association;

(j) pay the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;

(k) keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred; and

(l) contract with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, homeowners associations, or other associations or corporations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

3.15. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize.

3.16. Borrowing. The Board shall have the power to borrow money for the purpose of maintenance, repair, restoration or improvement to the Common Property or for any other purpose; provided, however, if the total amount of such borrowing exceeds or would exceed ten thousand dollars (\$10,000.00) of outstanding debt at any one time, such borrowing must first be approved by members of the Association holding a majority of the total Association vote.

3.17. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

ARTICLE IV

OFFICERS

4.1. Designation. The principal officers of the Association shall be the President, Vice President, Secretary, and Treasurer. The President, Vice President and Secretary must be directors. The Treasurer shall be elected by the Board, but need not be a director. The Board may appoint one or more Assistant Treasurers, Assistant Secretaries, and such other subordinate officers as in its judgment may be necessary. Any assistant or subordinate officers shall not be required to be directors. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one (1) office.

4.2. Appointment of Officers. The Association officers shall be appointed annually by the Board of Directors at the first meeting of the Board following each annual meeting of the members and shall hold office at the pleasure of the Board and until a successor is elected.

4.3. Removal of Officers. Upon the affirmative vote of a majority of the Board members at any Board meeting at which a quorum is established, any officer may be removed, either with or without cause, and a successor may be elected.

4.4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

4.5. President. The President shall be the chief executive officer of the Association and shall preside at all Association and Board meetings.

4.6. Vice President. The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

4.7. Secretary. The Secretary shall keep the minutes of all Association and Board meetings and shall have charge of the Association's books and records.

4.8. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board.

4.9. Other Officers. Other offices may be created by the Board, and the Board members which hold such offices shall have such titles and duties as are defined by the Board.

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

ARTICLE V

AMENDMENTS

5.1. General. Subject to Section 5.2 of this Article, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the Association members holding at least two-thirds (2/3) of the total vote of the Association. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be

effective until certified by the President and Secretary of the Association and filed in Cherokee County, Georgia land records.

5.2. Approval by Declarant. Until the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person, any amendment to the Bylaws must be approved in writing by the Declarant prior to becoming effective; and during such time, Declarant shall have the unilateral right to amend the Bylaws from time to time without the approval of the Association members. Declarant shall have the right to veto and reject any amendment to the Bylaws until such time as all of the Additional Property described on Exhibit "B" of the Declaration has been annexed and subjected to the Declaration, or ten years from the Effective Date of the Declaration, whichever is earlier.

5.3. Georgia Property Owners' Association Act. After the date on which one hundred percent (100%) of the Lots shown on the final recorded plat or plats for the Community have been conveyed from Declarant to any other Person, the majority of the then Board of Directors, without the approval of the Association members, may record an amendment to submit the Declaration and these Bylaws to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq.

5.4. Limitation Period. If legal action is not instituted to challenge the validity of any amendment to the Declaration or Bylaws within one (1) year of the recording thereof in the Cherokee County, Georgia land records, then any such amendment shall be presumed to be validly approved and adopted. This limitation period shall not apply to any challenge by the Declarant.

ARTICLE VI

MISCELLANEOUS

6.1. Committees. The Architectural Control Committee shall be a standing committee of the Association as provided in the Declaration. The Board may establish a nominating committee and any other committee as the Board deems desirable with the powers and duties that the Board shall authorize. Members of any committee shall be appointed by the Board and shall serve at the pleasure of the Board. Any committee member may be removed with or without cause at any time and with or without a successor being named.

6.2. Notices.

(a) Method of Giving Notice. Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing and shall be given:

- (1) Personal delivery to the addressee;

- (2) Via United States mail, first class, postage prepaid;
- (3) Via electronic mail; or
- (4) Via facsimile; or
- (5) Via any other legal means.

(b) Addressee. Notice sent by one of the methods described herein shall be deemed to have been duly given:

(1) If to an Owner, at the address, electronic mail address or facsimile number which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Owner's Lot;

(2) If to an Occupant, to the electronic mail address or facsimile number which the Occupant has designated in writing, or if no such address has been designated, at the address of the Lot occupied; or

(3) If to the Association, the Board or the managing agent, at the postal address, facsimile, or electronic mail address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary.

6.3. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

6.4. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

6.5. Fiscal Year. The fiscal year of the Association may be set by Board resolution or, in the absence thereof, shall be the calendar year.

6.6. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board. However, after having received the Board's financial review at the annual meeting, the members may, by a majority of the Association members present at such meeting, in person or proxy, require that the Association accounts be audited as a common expense by an independent accountant.

6.7. Conflicts. The duties and powers of the Association shall be those set forth in the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association. If there are conflicts or inconsistencies between such, then the provisions of the Georgia Nonprofit Corporation Code (as may be applicable), the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner of a Lot, by acceptance of a deed or other

conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

6.8. Books and Records. To the extent provided for, and restricted in, Section 14-3-1602 of the Georgia Nonprofit Corporation Code, as such Section may be amended from time to time, all Association members and any institutional holder of a first Mortgage shall be entitled to inspect Association records at a reasonable time and location specified by the Association, upon written request at least five (5) business days before the date on which the member wishes to inspect and copy. The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the member. Notwithstanding anything to the contrary, the Board may limit or preclude member inspection of confidential or privileged documents, including attorney/client privileged communications, executive session meeting minutes, and financial records or accounts of other members. Minutes for any Board or Association meetings do not become effective as an official Association record until approved by the Board or Association membership, as applicable, at a subsequent meeting. All Board members may inspect and copy any book or record of the Association.

6.9. Preparer. These Bylaws were prepared by John T. Lueder, The Lueder Law Firm, LLC, 2050 Marconi Drive, Suite 300, Alpharetta, Georgia 30005.

IN WITNESS WHEREOF, the undersigned has executed these Bylaws this 14th day of September, 2007.

DECLARANT:

McBRIDE & SON HOMES
LAND DEVELOPMENT, INC.

By: [Signature] Jeffrey M. Berger
Its: Secretary

Attest: [Signature]

Sworn to and subscribed before me
this 14th day of Sept., 2007.

[Signature]
Notary Public

