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DECLARATION OF PROTECTIVE COVENANTS

FOR

ELLSWORTH

RUBY-FORREST LTD.

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BUFORD, GEORGIA 30515
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4-10-01

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<u>Exhibit</u>	<u>Name</u>
"A"	Definitions
"B"	Property Submitted
"C"	Bylaws of Ellsworth Homeowners Association, Inc.

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DECLARATION OF PROTECTIVE COVENANTS
FOR
ELLSWORTH

THIS DECLARATION is made on the date set forth below by Ruby-Forrest Ltd., a Georgia Corporation ("Declarant");

W I T N E S S E T H:

WHEREAS, Declarant and the undersigned property owners are the owners of the real property described in Article II, Section 1 of this Declaration; and

WHEREAS, Declarant and the undersigned property owners desire to subject the real property described in Article II, Section 1 to the provisions of this Declaration to create a residential community of single-family housing;

NOW, THEREFORE, Declarant and the undersigned property owners declare that, subject to the provisions of this Declaration, the real property described in Article II, Section 1 of this Declaration, including the improvements constructed or to be constructed thereon, is subjected to the provisions of this Declaration, and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall be for the benefit of all owners of the property subject to this Declaration.

Article I
Definitions

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A", attached and made a part of this Declaration.

Article II
Property Subject To This Declaration

The real property which is, by the recording of this Declaration, subject to the covenants and restrictions set forth in this Declaration is the real property described in Exhibit "B", attached and made a part of this Declaration.

Section 1. Identification of Parcel or Phase Names. For marketing purposes, the Declarant may identify individual phases, parcels or sections of the Ellsworth subdivision by distinct phase names, including, but not limited to, the Ellsworth phase or the Ellsworth Glen phase. Notwithstanding any distinct identification of phases or sections of the subdivision, all such property submitted hereto shall be governed by and subject to this Declaration, and shall be subject to the jurisdiction of the Ellsworth Homeowners Association, Inc.

Article III
Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee interest in any Lot that is subject to this Declaration shall automatically be a member in the Association. Membership shall not include Persons who hold a security interest only, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. 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 vote be cast nor one office held for each Lot owned.

Section 2. Voting. Members shall be entitled to one equal vote for each Lot owned. When more than one Person holds an ownership interest in any Lot, the vote for such Lot shall be cast as those Owners decide and instruct the Secretary prior to any meeting. If the Secretary is not instructed, the Lot's vote shall be suspended in the event more than one Owner of a Lot attempts to cast it.

Article IV
Assessments

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed to the Lot, whether or not stated in the deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, to be established and collected as hereinafter provided; (c) initial capital contributions, as provided herein, and (d) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines imposed hereunder.

All assessments, together with late charges, interest (not to exceed the maximum legal rate), costs, and reasonable attorney's fees actually incurred, shall be (a) a charge on the land and a continuing lien upon the lot against which each assessment is made from the time the sums become due and payable; and (b) the personal obligation of the Person who is the Owner of the Lot at the time the assessment becomes due. The grantee of each Owner shall be jointly and severally liable for the portion of an assessment as is due and payable at the time of transfer of the Lot. However, the liability of a grantee for the unpaid assessments of an Owner shall not apply to any first Mortgage holder taking title through foreclosure proceedings or by deed in lieu of foreclosure; provided, however, any first Mortgage holder who takes title through foreclosure proceedings or by deed in lieu of foreclosure shall be liable for all assessments due after the date of foreclosure.

The Association shall, within five (5) days after receiving a written request and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a

specified Lot have been paid. A properly executed certificate of the Association certifying the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

Assessments shall be levied equally on all Lots either within the Community, as applicable, and shall be paid in such manner and on such dates as are fixed by the Board of Directors. Upon ten (10) days' written notice, the Board may accelerate the annual assessment for delinquents. Unless the Board provides otherwise by resolution, assessments shall be paid in monthly installments.

Section 3. Computation of Annual Assessment. At least thirty (30) days before the beginning of each fiscal year, commencing on the first year after the Declarant's right to appoint and remove directors hereunder expires, the Board shall prepare a budget covering the estimated common expenses of the Association during the coming fiscal year. The budget may include a capital contribution establishing a reserve fund.

In preparing the budget, the Board shall take into account the number of Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. So long as the Declarant owns any property subject to this Declaration, on an annual basis, the Declarant may elect, but shall not be obligated, to reduce the assessment for any fiscal year by payment of a subsidy. The payment of a subsidy in one year shall under no circumstances obligate the Declarant to continue payment of a subsidy in future years. The Declarant's option to subsidize the assessment may be satisfied in the form of cash, or by "in kind" contributions of services or materials, or a combination of these. During such time as the Declarant retains the power to appoint directors hereunder, Declarant shall not be obligated to prepare a budget, but shall establish the annual assessment in an amount determined in Declarant's reasonable discretion. Declarant shall maintain records of assessments collected and Common Expenses made from such funds; however, Declarant shall not be required to maintain or provide records of any subsidies made by Declarant, except such records as demonstrate the payment of Common Expenses and the collection of assessments from Lot Owners.

The Board shall deliver or mail a copy of the common expense budget and notice of the amount of the assessment for each Lot to each Owner at least thirty (30) days prior to the beginning of the fiscal year. The budget and assessment shall become effective unless disapproved at a meeting by a Majority of the total Association vote and the Declarant (so long as the Declarant owns any property subject to this Declaration). There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Owners as provided in the Bylaws. The petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the above, in the event the proposed budget is disapproved or the Board fails to prepare and distribute the budget for any year then until such a budget is prepared and distributed, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special assessments must be approved by Owners holding at least two-thirds (2/3) of the votes present in person or by proxy at a duly called meeting held for such purpose and, so long as the Declarant owns any property subject to this Declaration by the Declarant. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special

assessment is imposed.

Section 5. Lien for Assessments. All assessments levied against any Lot, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall be secured by a lien on the Lot in favor of the Association from the time the assessment becomes due and payable. The Association shall have the right, but not the obligation to evidence the existence of the lien by filing a notice of lien in the Gwinnett County, Georgia, records. The lien shall be superior to all other liens and encumbrances on the Lot, except for (a) liens for ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the Gwinnett County, Georgia, records.

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

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments of assessment which are not paid when due shall be delinquent. Any assessment or installment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine, which shall not exceed fifteen (15%) percent of the assessment payment. The Association shall cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. If the assessment is not paid when due, a lien shall attach and, in addition, the lien shall include the late charge, interest at a rate not to exceed the highest rate allowed under Georgia law, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. The existence of the lien may, but is not required to be, evidenced by the filing of a notice of lien in the Gwinnett County, Georgia, records.

If the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, suspend voting and common area use privileges of the delinquent Owner and institute suit to collect such amounts and to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the lien. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot.

No Owner may waive or otherwise exempt himself or herself from liability for assessments, by abandoning the Lot or in any other manner. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and no reduction of any assessment shall be claimed or allowed for any reason whatsoever, including, but not limited to, nonuse of the Common Property, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Section 7. Date of Commencement of Assessments. Assessments shall commence as to a Lot on the first day of the month following the conveyance of the Lot to a Person other than (a) the Declarant, or (b) a builder or developer

who purchases the Lot for the purpose of construction of a residence and resale of the Lot and residence. Except as set forth in Section 9 of this Article, neither the Declarant nor a builder or developer who purchases a Lot for the purpose of construction of a residence and resale of the Lot and residence shall be responsible for the payment of any type of assessment; provided, however, assessments shall commence on Lots containing occupied residences that are owned by Declarant or any builder or developer on the first day of the month following the occupancy of the residence located on the Lot. Assessments shall be due and payable in a manner and on the schedule that the Board of Directors provides. Lots which have not been conveyed as provided above shall not be subject to assessment. The first annual common assessment shall be adjusted according to the number of months then remaining in that fiscal year.

Section 8. Specific Assessments. The Board shall have the power to specifically assess specific Lots pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future. Fines levied pursuant to Article XII, Section 1 hereof and the costs of maintenance performed by the Association for which the Owner is responsible under Article V, Sections 1 and 2 shall be specific assessments hereunder.

Additionally, except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility hereunder, any Common Expenses benefitting less than all of the Lots or significantly disproportionately benefitting all Lots may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received. Furthermore, any Common Expenses occasioned by any Lot Owner(s) or by the licensees or invitees of any such Lot(s) may be specially assessed against such Lot(s).

Article V

Maintenance; Conveyance of Common Property to Association

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, replacement, and in the Board's discretion, improvement, of all landscaping and improvements located on the Common Property. The Association shall maintain the entry features for the Community which are located on Lots within the Community, and shall maintain and pay the expenses for any water and electricity provided to the entry features by the Association. The Association shall maintain all storm water detention or retention ponds and storm water drainage facilities located in or serving the Community, if and to the extent such facilities are not maintained by a public entity or owners of neighboring property.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether located within or without the Community, where the Board has determined that such maintenance would benefit all Owners.

If the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not completely covered or paid for by insurance, then the Association may perform the maintenance, repair or replacement at the expense of the Owner, and all costs shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

The Association shall perform all maintenance in a manner consistent with

the Community-Wide Standard.

Section 2. Owner's Responsibility. Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements on the Lot shall be the sole responsibility of the Owner, who shall maintain the Lot in a manner consistent with the Community-Wide Standard and this Declaration. Each Owner also shall maintain any grassed or landscaped right-of-way located between Owner's Lot and the curb of any street(s) adjacent to Owner's Lot. If the Board of Directors determines that a Lot is not maintained in a manner consistent with the Community-Wide Standard and this Declaration, except in an emergency situation, the Board of Directors shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall state the maintenance, repairs, or replacement deemed necessary. The Owner shall have thirty (30) days after receipt of the notice to complete the maintenance, repair, or replacement. In the event that the maintenance, repair, or replacement is not capable of completion within a thirty (30) day period, the Owner shall begin the work and shall complete it within a reasonable time. If any Owner does not comply, the Association may provide the maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

Section 3. Conveyance of Common Property by Declarant to Association. The Declarant may, but shall not be obligated to, transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. No representations are made by Declarant regarding any improvements to be constructed on any portion of the Common Property. To the extent that any drawings, statement or documents identify any recreational facilities or other improvements on the Common Property, then such drawing statements and documents reflect only possible improvements contemplated by Declarant, the construction of which are within Declarant's sole discretion. Declarant shall have the right to select, locate and construct improvements and recreational facilities upon the Common Property as Declarant chooses.

Article VI Use Restrictions and Rules

Section 1. General. This Article, sets out certain use restrictions which must be complied with by all Owners and occupants of Lots. These use restrictions may only be amended in the manner provided in Article XII, Section 4, regarding amendment of this Declaration. In addition, the Board may, from time to time, without consent of the Owners, adopt, modify, or delete rules and regulations applicable to the Community. These rules shall be distributed to all Owners prior to the date that they are to become effective and after distribution shall be binding upon all Owners and occupants of Lots until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the total eligible Association vote and the consent of Declarant (so long as the Declarant owns any property subject to this Declaration). Notwithstanding the above, until such time as one hundred (100%) percent of the Community has been developed and conveyed to purchasers in the normal course of development and sale, no rules and regulations which affect the Declarant may be adopted, modified, or deleted without the written consent of the Declarant.

Section 2. 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 the residence on a Lot may conduct such ancillary business activities within the residence so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the residence; (b) 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 material or items by United States Postal delivery or by other customary parcel delivery (U.P.S., Federal Express, etc.); (c) the business activity conforms to all zoning requirements for the Community; (d) the business activity does not increase traffic in the Community; (e) 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 (f) 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 sole discretion of the Board of Directors. No Lot shall be used for a school, church or day care facility.

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) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding the above, Lots may be used by Declarant for sales, marketing, construction and development activities, and such shall not constitute a violation of this Section.

Section 3. Signs. No sign of any kind shall be erected by an Owner or occupant of a Lot within the Community without the prior written consent of the Architectural Control Committee, except: (a) one professionally lettered "For Sale" or "For Rent" sign, and (b) one professionally lettered security sign consistent with the Community-Wide Standard may be erected upon a Lot. No signs or flags shall be placed in any windows on a Lot. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs. This Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage, or to Declarant, as long as Declarant owns any property subject to this Declaration. No advertising, directional or vendor signs shall be permitted within the Community except as authorized by the Declarant under Article XII, Section 14 of this Declaration.

Section 4. Recreational Vehicles and Boats. No boat trailer, boat or recreational vehicle (RV, motor home, etc.) shall be parked on any Lot, except on such parking areas as specified by the Board or the ACC, or within enclosures or behind screening erected in accordance with plans and specifications submitted to and approved by the ACC, which approval shall not be unreasonably withheld so long as such items are screened in a manner so that the vehicle is not visible from the street or streets abutting the Lot or from another Lot. While nothing contained herein shall prohibit the use of portable or temporary buildings or trailers as field offices by contractors during construction of dwellings on Lots, the use, appearance and maintenance of such a building or trailer must be specifically approved by the Declarant or the ACC prior to its being moved onto the Property.

Section 5. Parking. All vehicles shall be parked in garages or on paved driveways on Lots. Without the prior written consent of the Board of Directors, no vehicles may be parked overnight on the Common Property. No vehicle shall be parked overnight on any street in the community. The following vehicles are prohibited from being kept, parked or stored regularly or habitually, as determined by the Board, at the Community, except in garages or otherwise as may be approved by the Board: junk vehicles, tractors, ATV's, trailers, buses, moving vans, wreckers, hearses, compressors, concrete mixers, vehicles with commercial writings on their exteriors, and vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tools, ladders, etc). Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily at the Community during normal business hours and at other hours during the event of an emergency for the purpose of serving any Lot or the Common Property. The Board shall be authorized to adopt reasonable rules further regulating parking in the Community and to tow vehicles upon 24 hours written notice if parked in violation hereof.

Notwithstanding the above, this Section shall not prevent the Declarant from using commercial vehicles and equipment on its property or on the Common Property as necessary for development or building activities.

Section 6. Leasing. Lots may be leased for residential purposes only. Except for Lots owned by the Declarant, all leases shall have a minimum term of six (6) months and a copy of all leases shall be given to the Board of Directors by the Owner of the Lot within thirty (30) days of entering into the lease. All leases shall require that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, and rules and regulations of the Association and shall also obligate the tenant to comply with these documents.

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 any recreational facilities on the Common Property.

Section 7. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines adopted pursuant to the Declaration which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of Lots and guests and invitees of occupants or Owners. The Owner shall be responsible for insuring that the occupant, and the guests, invitees and licensees of the Owner or the occupant strictly comply with all provisions of the Declaration, Bylaws, and any rules and regulations adopted by the Board of Directors. Fines may be levied against Owners or occupants.

Section 8. Animals and Pets. No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Property, as determined by the Board. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, nor keep any swine, poultry or livestock. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property without prior written approval of the ACC.

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, shall be permanently removed from the Property upon seven (7) days' written notice by the Board. If the Owner or Occupant fails to do so, the Board may have the pet permanently removed from the Community, whether by animal control authorities or by permanent injunction. 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.

Section 9. Nuisance. Except for construction activities approved by Declarant or the Board, no noxious or offensive activity or condition shall be carried on or maintained within the Community, nor shall anything be done which, in the sole opinion of the Board or the Declarant, constitutes a nuisance or causes unreasonable and excessive disturbances to the Community. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device, except for devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law. However, any siren or device for security purposes shall contain a device which causes it to automatically shut off within fifteen (15) minutes.

Section 10. Antennas and Satellite Dishes. No transmission antenna, of any kind, may be erected anywhere on the Community without written approval of the Board of Directors or the ACC. No 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. 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 antennas as are permitted hereunder shall be screened from view from the street, and shall be installed at the rear of the home when feasible. 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 home or structure or otherwise; provided, however, that the Declarant and the Association shall have the right to erect, construct and maintain such devices.

Section 11. Tree Removal. No trees having a diameter of six (6) inches or more and a height of more than eight (8) feet above the ground shall be removed without the express consent of the Declarant or ACC, except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees or for safety reasons; and (c) trees within ten (10) feet of the residence, driveway, walkways constructed or to be constructed on the Lot.

Section 12. Drainage and Erosion Control. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant of a Lot may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across all Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Declarant or ACC of plans and specifications for the prevention and control of such erosion or siltation. The Declarant or ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, and requiring landscaping as provided for herein.

Section 13. Sight Distance at Intersections. All property located at the intersections of streets and driveways shall be landscaped so as to permit safe sight across the corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight

problem.

Section 14. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots and Common Property and the street on which the Lot fronts. Outdoor clotheslines are prohibited. Trash cans and receptacles may be placed outside the dwelling for pickup by the trash service provider not more than twenty-four (24) hours prior to the scheduled pickup, and must be removed not later than twelve (12) hours after the pickup.

Section 15. Subdivision of Lots and Outbuildings. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. No structure of a temporary character, trailer, tent, shack, carport, garage, barn, shed or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Property, at any time, either temporarily or permanently, without the prior written consent of the Declarant or ACC, and, if, so approved, such shall not be used as a dwelling, school, church or daycare facility.

Section 16. Fences. No fence or fencing-type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Declarant or ACC. Except as may be approved by Declarant or ACC, all fencing shall be constructed of wood. The Declarant or ACC may issue additional guidelines detailing acceptable fence styles or specifications.

Section 17. Air Conditioning Units. No window air conditioning unit may be located in any part of any dwelling or accessory structure which is visible from any street or other Lot, and all exterior compressor units shall be ground mounted in the rear or along the side of a residence constructed upon a Lot.

Section 18. Lighting. Except for seasonal Christmas decorative lights and outside light fixtures attached to a dwelling, provided such lights are not spotlights whose beam is directed toward another dwelling, all exterior lights must be approved by the Declarant or ACC.

Section 19. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the Declarant or ACC.

Section 20. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, and approved by the Declarant or ACC.

Section 21. Swimming Pools. Above ground swimming pools shall not be erected, constructed, or installed on any Lot. No in ground swimming pools on other Lots may be installed without the prior written approval of the Declarant or ACC.

Section 22. Standard Mailboxes. Mailboxes are provided by the builder for dwellings on all Lots, and mailboxes shall be standard throughout the Community without exception. No newspaper boxes or receptacles are permitted.

Section 23. Recreational Equipment. No recreational and playground equipment, including basketball goals, shall be placed or installed on any Lot except in a location behind the front plane of the dwelling, as approved by the

Declarant or ACC.

Section 24. Window Treatments. Except with approval of the Declarant or ACC, all window treatments shall have white or off-white backing or linings.

Section 25. Dwelling Requirements. Only one single family dwelling is permitted per Lot. No dwelling on a Lot shall contain less than 1,600 square feet of floor space for Lots on the interior of the Community, or less than 1,800 square feet of floor space for Lots on the exterior of the Community. All dwellings shall be constructed with a garage to house at least two cars. The interior wall of all garages must be finished and painted surface. Front gable roof pitches on dwellings on Lots shall be no less than 8/12. Except as approved by Declarant, the exterior surfaces of all dwelling on Lots and any other permitted accessory building structures shall be brick stucco, stone veneer, or a Masonite or equivalent approved siding, or an approved combination thereof. Except as approved by Declarant, no wood stoops are permitted on the front of dwellings. Any and all vertical wood on a dwelling visible from the street on which the dwelling fronts, including, but not limited to, railings or pickets, shall be painted. Electrical meter bases installed on the side of dwellings shall be painted the same color as the siding or body of the dwelling.

Section 26. New Construction Requirements. All initial construction of dwellings and related improvements, landscaping and grading on Lots shall be subject to review and approval of Declarant pursuant to Article IX hereof. The builder of the dwelling on each Lot shall be responsible for implementation of, and conformance with all requirements of the applicable county and/or municipal soil erosion control ordinances during construction of the dwelling and other improvements on the Lot, and until conveyance of the Lot to a purchaser. The builder shall seed with a permanent vegetative cover all earth disturbed by the builder's construction activities, except that the builder shall sod all yards of Lots fronting on streets. All dwellings or structures constructed or erected on a Lot must be completed within one year of commencement thereof. Except with approval of Declarant, all Lots shall have sidewalks where the Lots adjoin any street in the Community. All construction on Lots also must conform to the requirements of Article IX hereof. Requests to Declarant for approval of construction of dwellings and related improvements on Lots shall include exterior elevations, exterior colors and materials, and site placement for the Lot.

Article VII
Insurance and Casualty Loss

Section 1. Insurance on Common Property.

(a) The Association's Board shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

(b) The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury 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 public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

(c) Premiums for all insurance obtained by the Association shall be a

Common Expense. The policies may contain a reasonable deductible, and the amount thereof shall be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its Members. Such insurance shall be governed by the provisions hereinafter set forth:

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

(ii) Exclusive authority to adjust losses under the Association's policies 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 hereto.

(iii) The Board shall be required to make every reasonable effort to secure insurance policies that will provide: (A) a waiver of subrogation by the insurer as to any claims against the Associations, its officers, directors and manager, the Owners and their respective tenants, servants, agents, and guests; (B) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash; (C) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners; and (D) 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.

(e) In addition to the other insurance required by this Paragraph, the Board shall obtain a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined by the Board using its best business judgment.

Section 2. Repair and Reconstruction. In the event of damage to or destruction of all or any part of the improvements on the Common Property as a result of fire or other casualty, unless seventy-five (75%) percent of the Lot Owners vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

(a) Cost Estimates. After a fire or other casualty causing damage to the Common Property, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures 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.

(b) Source and Allocation of Proceeds. If insurance proceeds are not sufficient to defray the estimated costs of reconstruction and repair of the Common Property, 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, a special assessment in an amount necessary to cover the insufficiency shall be made against all of the Members without the necessity of a vote of the Members or compliance with Article IV, Section 4 above. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be distributed equally to the Owners or credited to the next assessment chargeable to the Owners.

(c) Plans and Specifications. Any reconstruction or repair of the Common Property shall be substantially in accordance with the plans and specifications under which the Property was originally constructed, except where changes are necessary to comply with current applicable building codes.

(d) Destruction of Dwelling on Lot. Each Owner covenants and agrees that, in the event of damage and destruction of the dwelling structure on the Owner's Lot, the Owner shall proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the original construction or such other specifications and plans as are approved by the ACC, unless a determination not to rebuild is made by the Lot Owner. If the structure is destroyed and a determination is made not to rebuild or 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.

Article VIII
Condemnation

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after the taking, Owners holding at least seventy-five (75%) percent of the total Association vote other than Declarant and the Declarant (so long as the Declarant owns any property subject to this Declaration) otherwise agree, the Association shall restore or replace the improvements taken on the remaining land included in the Common Property to the extent lands are available. The provisions of Article VII, Section 3, above, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

Article IX
Architectural Standards

Section 1. Architectural Control Committee. No exterior construction, addition, erection, or alteration shall be made upon any Lot or other part of the Community unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by the Declarant or the Architectural Control Committee ("ACC"). Initial construction of dwellings and related improvements on Lots also shall require compliance with Article VI, Sections 25 and 26 hereof and with any Design Guidelines established by Declarant or the ACC. However, no approval shall be required for any construction, alteration or addition made by the Declarant. Until one hundred (100%) percent of the Community has been developed and conveyed to purchasers in the normal course of development and sale, the Declarant shall have the right to appoint all members of the ACC. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. After the Declarant's right to appoint has expired, the Board of Directors shall appoint the members of the ACC, or may adopt a resolution making the Board of Directors the ACC. The Board may employ for the ACC architects, engineers, or other Persons necessary to enable the ACC to perform its review. The ACC may, in its discretion, from time to time establish, abolish or amend standards to govern the development of Lots and the design and construction of improvements. The text of such standards and amendments shall be available to each Owner. Such standards shall be binding upon all Owners. A review fee in a reasonable amount may be charged.

Section 2. Architectural Standards and Procedures. The primary

purpose of these architectural controls is to protect and preserve property values in the Community by maintaining architectural and aesthetic harmony and compatibility among the Lots and the structures on the Lots in the Community. The architectural controls and standards may be designed and applied to reflect that Lots within the Community are of varying sizes, topographies and locations, and that improvements and modifications suitable for one Lot may be inappropriate for another Lot. Therefore, the Declarant and the ACC are authorized to apply or adopt different standards for different Lots to reflect the varying sizes and layouts of Lots within the Community. Specifically, the Declarant or the ACC may, for example, allow an improvement, modification or change which cannot be seen from any street or other Lot within the Community at any time during the year, including winter, but prohibit the same change if it can be seen from any street or other Lot within the Community.

The Declarant or the ACC may, but shall not be obligated to, prepare design and development guidelines and application and review procedures (the "Design Guidelines") which shall be applicable to all construction activities within the Community. The Design Guidelines may contain general provisions applicable to all of the Community, as well as specific provisions which vary from one portion of the Community to another depending upon the location, unique characteristics, and intended use. The Design Guidelines may be amended from time to time by the Declarant or the ACC. The Design Guidelines and any amendments thereto shall be subject to approval by the Board.

Any amendments to the Design Guidelines adopted from time to time by the Declarant or the ACC in accordance with this Section shall apply to construction and modifications approved after the date of such amendment only, and shall not apply to plans or specifications previously approved or require modifications to or removal of structures previously approved by the Declarant or the ACC.

In the event that the ACC fails to approve or to disapprove any application within forty-five (45) days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the Declarant or the ACC pursuant to Section 6 of this Article.

Subject to the appeal procedure outlined in Section 3 below, the ACC shall be the only judge of the plans with regard to the requirements of this Article and may withhold approval for any reason, including purely aesthetic considerations. The ACC shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. If an Owner does not comply with this Section, the Board may record in the appropriate land records a notice of violation naming the violating Owner, in addition to any other available remedies.

Section 3. Appeal. So long as the Declarant retains the right to appoint members of the ACC, no Lot Owner or Occupant shall have a right to appeal decisions of the ACC. However, after the Declarant no longer has the right to appoint members of the ACC, if the ACC disapproves any application hereunder or part thereof, the Owner of such Lot shall have the right to request an appeal of the ACC's decision to the Board. Such written appeal must be received by the Board within ten days of the date of issuance of the ACC's

notice of disapproval.

Section 4. Disclaimer. The Declarant or the ACC and the Board of Directors do not warrant or represent that their decisions under this Article constitute, and their decisions shall not be interpreted as constituting, an approval as to compliance with any building code, regulation or ordinance, or any other code, regulation, ordinance or law, nor that their decisions under this Article reflect upon the structural integrity or design of any proposed construction, alteration or improvement.

Section 5. No Waiver. The approval of the Declarant or the ACC of any proposals, plans and specifications, or drawings, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or other matters later submitted for approval or consent.

Section 6. Variances.

(a) The Declarant, the Board or the ACC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) prevent the Committee from denying a variance in other circumstances.

(b) The architectural standards and their enforcement may vary from time to time. These variances shall not constitute a waiver by the Declarant, ACC or Board of the right to adopt and enforce architectural standards under this Article. No decision by the Declarant, ACC or Board shall constitute a binding precedent with respect to subsequent decisions. However, nothing in this Article shall permit the Declarant, ACC or Board to enforce retroactively its architectural standards against a Lot Owner whose architectural change has been approved under the architectural standards of Declarant or a previous ACC or Board.

Section 7. Special Requirements. Plans and specifications will not be approved unless the residence to be erected on the Lot complies with the minimum zoning requirements and special conditions of Gwinnett County, Georgia under the zoning classification for the Lot on the day building permits are purchased.

Article X
Mortgage Provisions

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

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

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

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such

delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

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

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

Section 2. Approval of Action. Unless two-thirds (2/3) of the first Mortgagees and Owners other than the Declarant give their consent, the Association shall not:

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

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

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

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

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

Nothing contained in this Section 2 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 2.

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

Section 3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 4. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 5. Amendments by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this

Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 6. Applicability of This Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Article XI
Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and adjacent portion of the Common Property or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). The easement shall be 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. However, an easement for encroachment shall not exist if the willful conduct by an Owner, tenant, or the Association caused the encroachment.

Section 2. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of entry and exit, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his Lot, subject to the following provisions:

(i) The right of the Association to charge reasonable fees for the use of any portion of the Common Property, 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 of the Common Property at certain designated times by an Owner, his or her family, tenants, guests, and invitees or by a separate group or entity;

(ii) the right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the recreational areas available for use by the Community, if any, for any period during which any assessment against his Lot which is hereby provided for remains unpaid and for a reasonable period of time for a violation of the Declaration, Bylaws or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Property, or for constructing, repairing, or improving any facilities located or to be located on the Common Property, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property. However, the Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges reserved or established for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property

located within the Community (Any provision in this Declaration or in any Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights in the Mortgage by the holder of the Mortgage in the event of a default shall not cancel or terminate any rights, easements or privileges reserved or established in this Declaration for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community.) No mortgage conveying all or a portion of the Common Property shall be effective unless an instrument agreeing to the Mortgage has been approved by Owners holding at least two-thirds (2/3) of the total eligible vote of the Association and, so long as Declarant own any property subject to this Declaration, by Declarant; and

(iv) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to any conditions agreed on by the members of the Association. No dedication or transfer of the Common Property shall be effective unless an instrument agreeing to the dedication or transfer has been approved by Owners holding at least two-thirds (2/3) of the total eligible Association vote and, so long as the Declarant owns any property subject to this Declaration, by Declarant.

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

Section 3. Easements for Utilities. There is reserved to the Declarant and the Association Blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (a) all utilities serving the Community or any portion of the Common Property, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (b) water runoff and storm drainage systems, and (c) any other services such as, but not limited to, a master television antenna system, cable television system, or security system which may be installed to serve the Community. It shall be expressly permissible for the Declarant, the Association, or the designee of either, to do or to authorize the installation, repairing, replacing, and maintaining of the wires, conduits, cables and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or Board, as applicable, shall have the right to grant such easement.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XII, Section 2, the Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. This right may also be exercised by the agents of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. The Board shall have the right to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard if an Owner or occupant does not cure the condition after request by the Board.

Section 5. Easement for Maintenance. Declarant expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article V, including, without limitation an easement over Lots on which entry features for the Community are located for maintenance of the entry features, and for any perimeter fence around the Community which may be constructed by Declarant. This maintenance shall be performed with a minimum of interference to the quiet

enjoyment to Owners' property, reasonable steps shall be taken to protect the property, and damage shall be repaired by the Person causing the damage at its sole expense.

Article XII
General Provisions

Section 1. Enforcement. Each Owner and every occupant of a Lot shall comply strictly with this Declaration, the Bylaws, the rules and regulations, as they may be lawfully amended or modified from time to time, and with any deed restrictions. The Board of Directors may impose fines or other sanctions, which shall be collected as provided for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations also shall be grounds for an action for damages or injunctive relief, or both, maintainable by the Declarant, the Board of Directors, on behalf of the Association, or by an aggrieved Owner in a proper case. Failure by the Declarant, the Association or any Owner to enforce any of the foregoing provisions shall not be a waiver of the right to enforce those provisions in the future. If the Association takes any enforcement action authorized hereunder against a violating Owner or Occupant, then all costs of such action, including reasonable attorney's fees, shall be an easement and lien against the Owner's Lot.

Section 2. Self-Help. In addition to any other remedies, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Lot Owner and shall be collected as provided for the collection of assessments.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of twenty (20) years, unless at least fifty-one (51½) percent of the record Owners execute an agreement to prevent renewal of the covenants and such agreement is recorded and an attorney's affidavit confirming ownership of the lots or such other requirement as provided in O.C.G.A. § 44-5-60. A written instrument reflecting termination must be recorded within the year immediately preceding the beginning of any renewal period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance, agrees that provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (b) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if an amendment is required by an institutional or governmental lender or purchaser of mortgage loans, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to this

Declaration; or (d) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration, However, any such amendment shall not adversely affect the title to any Owner's Lot unless the Lot Owner consents to the amendment in writing. The Declarant, or, after Declarant no longer owns any property subject to this Declaration, the Board of Directors, without a vote of the Association members, shall have the right to amend this Declaration unilaterally to submit and conform the Property to the terms of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-225, et seq.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least sixty-seven (67%) percent of the total eligible Association vote and, so long as Declarant owns any property subject to this Declaration, the written consent of Declarant. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified in the amendment.

In addition to the above, material amendments to this Declaration must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Lots that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Section 5. Security. The Association may, but shall not be required to, provide measures or take actions which directly or indirectly improve safety in the Community. However, each Owner, for themselves and their tenants, guests, licensees, and invitees acknowledge and agree that the Association is not a provider of security and shall have no duty to provide security for the Community. It shall be the responsibility of each Owner to protect his or her person and property, and all responsibility to provide security shall lie solely with each 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.

Section 6. Dispute Resolution. Any Owner or occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or occupant files any lawsuit against the Association, the Board, any director, or any agent of the Association. The Owner or occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing by the person requesting the hearing. In the Board's discretion, the Board may require that the dispute be submitted to mediation by an independent mediator.

Section 7. Partition. The Common Property shall remain undivided, and no Lot Owner or any other Person shall bring any action for partition or division of the whole or any part of the Common Property without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

Section 8. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 9. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 10. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 11. Preparer. This Declaration was prepared by Jay S. Lazega, Esq., Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, Fifteenth Floor, 1349 West Peachtree Street, Atlanta, Georgia, 30309.

Section 12. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 13. Indemnification. In accordance with the Georgia Nonprofit Corporation Code, and to the full extent allowed by Georgia law, the Association shall indemnify every person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such person is or was serving as a director or officer of the Association, against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

Section 14. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the Bylaws, Articles of Incorporation, rules and regulations, Design Guidelines, and any amendments, so long as there is development and construction related to the initial sale of residences constructed on Lots, it shall be expressly permissible for Declarant to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibit "B" to this Declaration, including, but without limitation the following:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Community;

(b) the right to tie into any portion of the Community with driveways,

parking areas and walkways;

(c) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(d) the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, residences, model residences, and sales offices. Declarant may use residences, offices, or other buildings owned or leased by Declarant as model residences and sales offices and may also use recreational facilities available for use by the Community as a sales office without charge.

Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent so long as the Declarant owns any property in the Community primarily for development and/or sale.

Section 15. Contracts Executed During Declarant Control. All contracts or leases executed by or on behalf of the Association during the period in which the Declarant has the right to appoint the directors and officers of the Association under the Bylaws shall contain a termination clause permitting the Association to terminate the contract or lease at any time, without cause and without penalty, upon not more than ninety (90) days' written notice.

Section 16. Financial Review. A review of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's reviewed financial statement at the annual meeting, by a Majority of the Association vote present, or represented by proxy, the Owners may require that the accounts of the Association be audited as a common expense by a public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of an audited financial statement within ninety (90) days of the date of the request.

Section 17. Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

Section 18. Agreements. Subject to the prior approval of Declarant (so long as the Declarant owns any property subject to this Declaration) all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 19. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate the right or privilege.

Section 20. Variances. Notwithstanding anything to the contrary contained in this Declaration, the Declarant or the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

IN WITNESS WHEREOF, the undersigned duly authorized officer of Declarant, and the undersigned property owner(s) have executed this instrument duly authorized this 10th day of April, 2001.

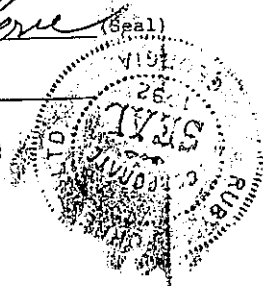
DECLARANT: RUBY-FORREST LTD., a Georgia Corporation

By: Keith R. Breedlove (Seal)
Keith R. Breedlove

Title: President

Signed, sealed, and delivered this
10th day of April, 2001.

[CORPORATE SEAL]



Carol L. Horne
Witness
Carol L. Horne
Notary Public

[NOTARY SEAL]
Notary Public, Forsyth County, Georgia
My Commission Expires March 22, 2008



[CONTINUED ON NEXT PAGE]

EXHIBIT "A"

Definitions

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

(a) "Association" shall mean Ellsworth Homeowners Association, Inc., a nonprofit Georgia corporation, its successors and assigns.

(b) "Board of Directors" or "Board" shall mean the appointed or elected body of the Association, as applicable, having its normal meaning under Georgia corporate law.

(c) "Bylaws" shall refer to the Bylaws of Ellsworth Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and made a part of this Declaration.

(d) "Common Property" shall mean any and all real and personal property and easements and other interests, together with the facilities and improvements located on the property, now or in the future owned by the Association.

(e) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto.

(f) "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. This determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

(g) "Declarant" shall mean and refer to Ruby-Forrest Ltd., a Georgia corporation, and such of its successors-in-title who shall (i) acquire, from a predecessor "Declarant," and for the purpose of development or sale, all or any portion of the real property described in Exhibit "B" hereto, and (ii) be designated as the "Declarant" in the deed of transfer by which such successors-in-title shall so acquire its interest in such real property, or by written assignment of Declarant rights in an instrument recorded in the Gwinnett County, Georgia records. There shall only be one Declarant at any one time and no more than one Person have the right to exercise the power and authority of the Declarant at any one time.

(h) "Eligible Mortgage Holder" shall mean those holders of first mortgages secured by Lots in the Property who have requested notice of certain items as set forth in this Declaration.

(i) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded or to be recorded in the Gwinnett County, Georgia, records.

(j) "Majority" means those eligible votes by Owners, or other group as the context may indicate, totaling more than fifty (50%) percent of the total eligible number.

(k) "Mortgage" means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(l) "Mortgagee" shall mean the holder of a Mortgage.

(m) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community,

excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(n) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

EXHIBIT "B"

Property Submitted

All that tract and parcel of land located in Puckett's Militia District (1397) of Gwinnett County, Georgia and being in Land Lots 224 and 264 of the 7th District, Headrights District, Sugar Hill (550) G.M.D., Gwinnett County, Georgia. This property being more particularly described in Exhibit "A" of the Warranty Deed secured from Cline Veal, recorded in Plat Book 19984, Pages 80 - 81 - 82 - 83, of the Superior Court of Gwinnett County, Georgia records dated February 4th, 2000.

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0094

BK 22793 PG 0094

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA.

01 APR 11 PM 12:34

TOM LAWLER, CLERK

BYLAWS
OF
ELLSWORTH HOMEOWNERS ASSOCIATION, INC.

Prepared by:

Jay S. Lazega, Esq.
WEISSMAN, NOWACK, CURRY & WILCO, P.C.

Attorneys
Two Midtown Plaza, 15th Floor
1349 West Peachtree Street
Atlanta, Georgia 30309
(404) 885-9215

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BYLAWS
OF
ELLSWORTH HOMEOWNERS ASSOCIATION, INC.

Article I
Name, Membership, Applicability, and Definitions

Section 1. Name. The name of the Association shall be Ellsworth Homeowners Association Inc. ("Association").

Section 2. Membership. The Association shall have one class of membership, as is more fully set forth in the Declaration of Protective Covenants for Ellsworth ("Declaration"). The provisions of the Declaration pertaining to membership are by this reference made a part of these Bylaws.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article II
Association: Meetings, Quorum, Voting, Proxies

Section 1. Place of Meetings. Meetings of the Association shall be held at the Community, at the principal office of the Association or at another place convenient to the members as determined by the Board of Directors.

Section 2. First Meeting and Annual Meetings. An annual or special meeting shall be held within one (1) year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur not more than sixty (60) days before the close of the Association's fiscal year.

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a Majority of the Board of Directors or upon a petition signed by Owners holding at least twenty-five (25%) percent of the total Association vote. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. The Secretary shall mail or cause to be delivered to the Owner of record of each Lot a notice of each annual or special meeting of the Association stating the purpose of the special meeting, as well as the time and place where it is to be held. If an Owner wishes notice to be given at an address other than his or her Lot, he or she shall have designated by notice in writing to the Secretary such other address. The mailing of such notice or delivery of such notice by leaving at the residence located on the Lot as provided in this Section shall be considered service of notice. Notices shall be served not less than ten (10) nor more than thirty (30) days before a special meeting and not less than twenty-one (21) nor more than sixty (60) days before an annual meeting.

Section 5. 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 meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. Any meeting of the Owners may be adjourned for periods not exceeding ten (10) days by vote of the Owners holding the Majority of the votes represented 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.

Section 7. Voting. Each Lot shall be entitled to one equally weighted vote, which vote may be cast by the Owner, the Owner's spouse, or by a lawful proxy as provided below. When more than one (1) Person owns a Lot, the vote for such Lot shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Lot. If only one (1) co-owner attempts to cast the vote for a Lot, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Lot. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if that Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Declaration, these By-Laws, or any rule of the Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum or for purposes of amending these Bylaws or the Declaration.

Section 8. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his or her Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. The presence, in person or by proxy, of Owners holding at least ten (10%) percent of the total eligible Association vote shall constitute a quorum at all meetings of the Association. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished.

Section 10. Action Taken Without a Meeting. In the Board's discretion, any action that may be taken by the Association members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every member entitled to vote on the matter.

(a) Ballot. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written 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 written ballot shall: a) indicate the number of responses needed to meet the quorum requirements; b) state the percentage of approvals necessary to approve each matter other than election of directors; and c) specify the time by which a ballot must be received by the corporation in order to be counted. A written 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 written consent shall be valid only when the number of written consents received equals or exceeds the requisite majority of the voting power for such action. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

Section 11. Order of Business. At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration, these Bylaws, the Articles of Incorporation, or a ruling made by the Person presiding over the meeting.

Article III
Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body, Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the directors shall be members or spouses of such members; provided, however, no Person and his or her spouse or co-Owner may serve on the Board at the same time.

Section 2. Directors Appointed by Declarant. Declarant shall have the right to appoint or remove all members of the Board of Directors and all officers of the Association until such time as the first of the following events shall occur: (a) the date on which one hundred (100%) percent of the Lots have been conveyed by Declarant and to Persons who have not purchased such Lots for the purpose of construction of a residence and resale of such Lot and residence; or (b) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant this authority to appoint and remove directors and officers of the Association. The directors and officers appointed by the Declarant need not be Owners or residents in the Community. The names of the initial directors selected by the Declarant is set forth in the Articles of Incorporation of the Association.

Section 3. Number of Directors. The Board shall consist of at least one (1) and not more than three (3) members during the period in which the Declarant has the right to appoint directors and officers as described in Section 2 of this Article and five (5) members after the expiration of this right.

Section 4. Nomination of Directors. Except with respect to directors appointed by the Declarant, nomination for election to the Board shall be made from the floor at the meeting at which directors are elected. Nominations also may be made by a nominating committee, if appointed by the Board.

Section 5. Election and Term of Office. Not later than thirty (30) days after termination of the Declarant's right to appoint directors and officers as described in Section 2 of this Article, the Association shall call a meeting to be held at which Owners shall elect five (5) directors. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after Declarant has surrendered control of the Association, three (3) directors shall be elected for a term of two (2) years and two (2) directors shall be elected for a term of one (1) year. At the expiration of the first term of office of each member of the initial Board of Directors, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

At each annual meeting of the membership, directors shall be elected to succeed those directors whose terms are expiring. Each member shall be entitled to cast one vote with respect to each vacancy to be filled from each slate on which the member is entitled to vote. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected.

Section 6. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the members of the Board of Directors, except those appointed by Declarant hereunder, may be removed, with or without cause, by Owners holding a Majority of the votes entitled to be cast for the election of that director and a successor may then and there be elected by the members entitled to elect that director in order to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and its purpose and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a Majority vote of the directors at a meeting, a quorum being present.

Section 7. Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association or by Declarant, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each director so selected shall serve the unexpired portion of the term of his predecessor.

B. Meetings.

Section 8. Organization Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days at the time and place determined by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a Majority of the directors, but, except during the Declarant's right to appoint directors hereunder, at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of the meetings.

Section 10. 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, or by facsimile transmission, which notice shall state the time, place, 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 on the written request of at least two (2) directors.

Section 11. Waiver of Notice. Any director may, at any time, in writing, 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.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as a director unless approved by a Majority of the Owners. 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.

Section 14. Action Without A Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by at least a Majority of the directors.

Section 15. Telephonic Participation. One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those directors participating by telephone shall be deemed to be present at such meeting for quorum and other purposes.

C. Powers and Duties.

Section 16. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparing and adopting an annual budget in which there shall be established the contribution of each Owner to the common expenses;

(b) making assessments to defray the common expenses, establishing the means and methods of collecting the assessments, and establishing the period of the installment payments of the annual assessment;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;

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

(e) collecting the assessments, depositing the proceeds thereof in a bank depository or institution which it shall approve or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. Section 14-3-302, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

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

(h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bring any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(i) obtaining and carrying insurance, as provided in the Declaration, and paying the premium cost;

(j) paying the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

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

(l) contracting 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, condominiums, or other associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity; and

(m) at such time as the Declarant no longer owns any property in the Community or the Declarant voluntarily surrenders in writing authority to appoint the Architectural Control Committee, the Board of Directors shall have the power to act as or appoint the Architectural Control Committee defined under the Declaration.

Section 17. Management Agent. The Board 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. The Board shall use reasonable efforts in any management contract to provide for termination of such contract with or without cause and without penalty, upon no more than thirty (30) days written notice, and for a term not in excess of one (1) year.

Section 18. Borrowing. The Board of Directors shall have the power to borrow money for any lawful purpose including, without limitation, repair or restoration of any Common Property and facilities, without the approval of the members of the Association. However, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the proposed borrowing is for the purpose of modifying, improving or adding amenities, or the total amount of such borrowing exceeds or would exceed Ten Thousand (\$10,000.00) Dollars outstanding debt at any one time.

Section 19. Fining and Suspension Procedure. The Board shall not impose a fine or suspend the right to vote or to use the Common Property, unless and until the Association has sent or delivered written notice to the violator as provided in subsection (a) below. However, compliance with this Section shall not be required for the following: (i) late charges on delinquent assessments, or (ii) suspension of voting or Common Property use rights if an Owner is shown on the Association's records to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to vote shall be automatic.

(a) Notice. If any provision of the Declaration or Bylaws or any Association rule is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fines may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine(s). 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 diem basis without further notice to the violator.

(b) Hearing. If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. 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.

Article IV Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President shall be elected from among the members of the Board of Directors.

Section 2. Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association under Article III, Section 2 of these Bylaws, the officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board following each annual meeting of the members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever, in its judgment, the removal will serve the best interests of the Association.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

Section 5. 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.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law.

Section 7. 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 of Directors.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article V
Committees

The Board of Directors is authorized to establish committees to perform those tasks and to serve for those periods that it designates. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Article VI
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 2. Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

Section 3. Financial Review. A review of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's reviewed financial statement at the annual meeting, by a Majority of the Association vote present, or represented by proxy, the Owners may require that the accounts of the Association be audited as a common expense by a public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of an audited financial statement within ninety (90) days of the date of the request.

Section 4. Amendment. These Bylaws may be amended unilaterally at any time and from time to time by Declarant or, if Declarant no longer owns any Lot, the Board (a) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (b) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) if an amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to the Declaration; or (d) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration. Additionally, as long as the Declarant, as defined under the Declaration, retains the power under the Declaration and/or Bylaws to appoint officers and directors of the corporation, the Declarant may amend these Articles and the Bylaws unilaterally for any purpose, without a vote of the corporation's membership. Additionally, after expiration of such power, as long as Declarant owns any Lot within the Community, Declarant shall have authority to amend these Articles and the Bylaws, without a vote of the corporation's membership, as long as such amendments do not adversely and materially affect the title to any Lot without such Lot owner's consent.

Additionally, the Declarant, or after Declarant no longer owns any property subject to this Declaration, the Board of Directors, without a vote of the Association members, shall have the right to amend these Bylaws and the

Declaration unilaterally to submit and conform the Property to the terms of the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-225, et seq.

In addition to the above, these Bylaws may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least a Majority of the total Association vote and, as long as Declarant owns any property in the Community, with the consent of Declarant. No provision of these Bylaws which reserves or grants special rights to the Declarant shall be amended without the Declarant's prior written consent so long as the Declarant owns any property in the Community primarily for development and/or sale.

Notwithstanding the above, VA and HUD shall have the right to veto amendments to these Bylaws for as long as the Declarant has the right to appoint directors and officers of the Association under Article III, Section 2 of these Bylaws.

Section 5. Books and Records. To the extent provided in O.C.G.A. Section 14-3-1602, 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) 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, members shall not be entitled to inspect privileged documents or the financial records or accounts of other members. Notwithstanding anything to the contrary, the Board may limit or preclude member inspection of confidential or privileged documents, including attorney/client privileged communication, executive session meeting minutes, and financial records or accounts of other members. Minutes for any Board or Association meetings do not become effective and an official Association record until approved by the Board or Association membership, as applicable, at a subsequent meeting.

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CERTIFICATION

I, the undersigned, do hereby certify:

That the undersigned are the duly elected and acting President and Secretary of Sandy Branch Farms Homeowners Association, Inc., a Georgia corporation, whose name is being changed to Ellsworth Homeowners Association, Inc., by Articles of Amendment being filed with the Secretary of State of Georgia contemporaneously herewith;

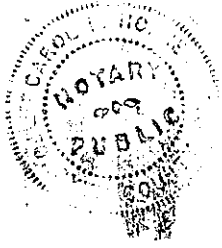
That the foregoing By-Laws constitute the Amended and Restated By-Laws of said Association, as duly adopted by the Board of Directors of the Association, pursuant to O.C.G.A. Section 14-3-1020, on the 10th day of April, 2001.

IN WITNESS WHEREOF, the undersigned have hereunto subscribed their names and affixed the seal of said Association this 10th day of April, 2001.

Sworn to and subscribed to before me this 10th day of April, 2001.

Allen Home
Witness
Carol J. Home
Notary Public

Notary Public, Forsyth County, Georgia
My Commission Expires March 22, 2005
[Notary Seal]



ELLSWORTH HOMEOWNERS ASSOCIATION, INC.

By: Keith R. Breedlove (Seal)
President Keith R. Breedlove

Attest: E. D. Breedlove (Seal)
Secretary E. D. Breedlove

[CORPORATE SEAL]

