

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA.

01 NOV 30 AM 9:59

TOM LAWLER, CLERK

Return to: Weissman, Nowack, Curry & Wilco, P.C. (MCW)
Two Midtown Plaza
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309

STATE OF GEORGIA
COUNTY OF GWINNETT

Reference: Deed Book 7603
Page 107

AMENDED AND RESTATED DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS FOR

ST. JOHN'S PARK

WHEREAS, St. John's Park, L.P., a Georgia limited partnership, recorded a Declaration of Covenants, Restrictions and Easements for St. John's Park Subdivision, on July 1, 1992, in Deed Book 7603, Page 107, et seq., Gwinnett County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, the Original Declaration has been previously amended by amendments recorded in the Gwinnett County, Georgia Records as follows:

<u>Recording Date</u>	<u>Deed Book/Page</u>
November 22, 1996	13481/011 <u>et seq.</u>
December 23, 1996	13589/247 <u>et seq.</u>
December 8, 1997	15140/138 <u>et seq.</u> ; and

WHEREAS, Article IX, Section 9.3 of the Original Declaration provides that the Original Declaration may be amended upon proper notice to each owner of an Association meeting, including the subject matter of the proposed amendment, and at such Association meeting a resolution adopting an amendment is proposed by the Board

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

190682-83

or Owners and the amendment is approved by a two-thirds (2/3) vote of the owners who are present at the meeting in person or by proxy; and

WHEREAS, a meeting of the Association was held after proper notice was sent to each owner specifying the subject matter of the amendment, and a resolution adopting this amendment was proposed, and this amendment was approved by a two-thirds (2/3) vote of the owners in person or by proxy at such meeting; and

WHEREAS, Article VI, Section 6.01 of the Bylaws of St. John's Park Homeowners Association, Inc. ("Original Bylaws") provides that the Original Bylaws may be altered, amended, or repealed or new Bylaws adopted by the affirmative vote of a majority of all of the Directors; and

WHEREAS, at least a majority of the Directors have approved this amendment to the Original Bylaws; and

WHEREAS, this amendment is not material with respect to first mortgagees in that it does not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines that this amendment does materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee's consent to this amendment, then this amendment shall not be binding on the first mortgagee so involved, unless such first mortgagee consents to this amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this amendment shall control with respect to the affected first mortgagee;

NOW, THEREFORE, the Original Bylaws and the Original Declaration and all exhibits thereto are hereby stricken in their entirety and the following is simultaneously substituted therefor:

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA.

01 NOV 30 AM 9:59

TOM LAWLER, CLERK

Return to: Weissman, Nowack, Curry & Wilco, P.C. (MCW)
Two Midtown Plaza
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309

STATE OF GEORGIA
COUNTY OF GWINNETT

Reference: Deed Book 7603
Page 107

AMENDED AND RESTATED DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS FOR

ST. JOHN'S PARK

WHEREAS, St. John's Park, L.P., a Georgia limited partnership, recorded a Declaration of Covenants, Restrictions and Easements for St. John's Park Subdivision, on July 1, 1992, in Deed Book 7603, Page 107, et seq., Gwinnett County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, the Original Declaration has been previously amended by amendments recorded in the Gwinnett County, Georgia Records as follows:

<u>Recording Date</u>	<u>Deed Book/Page</u>
November 22, 1996	13481/011 <u>et seq.</u>
December 23, 1996	13589/247 <u>et seq.</u>
December 8, 1997	15140/138 <u>et seq.</u> ; and

WHEREAS, Article IX, Section 9.3 of the Original Declaration provides that the Original Declaration may be amended upon proper notice to each owner of an Association meeting, including the subject matter of the proposed amendment, and at such Association meeting a resolution adopting an amendment is proposed by the Board

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

190682-83

or Owners and the amendment is approved by a two-thirds (2/3) vote of the owners who are present at the meeting in person or by proxy; and

WHEREAS, a meeting of the Association was held after proper notice was sent to each owner specifying the subject matter of the amendment, and a resolution adopting this amendment was proposed, and this amendment was approved by a two-thirds (2/3) vote of the owners in person or by proxy at such meeting; and

WHEREAS, Article VI, Section 6.01 of the Bylaws of St. John's Park Homeowners Association, Inc. ("Original Bylaws") provides that the Original Bylaws may be altered, amended, or repealed or new Bylaws adopted by the affirmative vote of a majority of all of the Directors; and

WHEREAS, at least a majority of the Directors have approved this amendment to the Original Bylaws; and

WHEREAS, this amendment is not material with respect to first mortgagees in that it does not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines that this amendment does materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee's consent to this amendment, then this amendment shall not be binding on the first mortgagee so involved, unless such first mortgagee consents to this amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this amendment shall control with respect to the affected first mortgagee;

NOW, THEREFORE, the Original Bylaws and the Original Declaration and all exhibits thereto are hereby stricken in their entirety and the following is simultaneously substituted therefor:

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
ST. JOHN'S PARK

WEISSMAN, NOWACK, CURRY, & WILCO, P.C.

Attorneys

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

- TABLE OF CONTENTS -

	<u>Page</u>
1. NAME.....	1
2. DEFINITIONS.....	1
3. LOCATION, PROPERTY DESCRIPTION, AND PLATS	3
4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS	3
5. ALLOCATION OF LIABILITY FOR COMMON EXPENSES	3
6. ASSOCIATION RIGHTS AND RESTRICTIONS	4
7. ASSESSMENTS.....	5
8. INSURANCE.....	7
9. REPAIR AND RECONSTRUCTION	8
10. ARCHITECTURAL CONTROLS	9
11. USE RESTRICTIONS	11
12. LEASING OF LOTS	18
13. SALE OF LOTS.....	21
14. MAINTENANCE RESPONSIBILITY	22
15. MORTGAGEE'S RIGHTS	23
16. GENERAL PROVISIONS	24
17. EMINENT DOMAIN.....	26
18. EASEMENTS.....	26
19. AMENDMENTS.....	28
20. SEVERABILITY.....	28
21. DURATION.....	28
22. PREPARER.....	28

- LIST OF EXHIBITS -

DESCRIPTION OF SUBMITTED PROPERTY.....	"A"
BYLAWS.....	"B"
LEASE AGREEMENT.....	"C"

AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
ST. JOHN'S PARK

1. NAME.

The name of the property is St. John's Park, which is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982).

2. DEFINITIONS.

Generally, terms that are used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as follows:

(a) Act means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as may be amended.

(b) Architectural Control Committee or ACC means the committee established to exercise the architectural review powers set forth in Paragraph 10 hereof.

(c) Area of Common Responsibility means the Common Property, together with any areas which become the Association's responsibility under this Declaration or by contract or agreement with any other Person.

(d) Articles or Articles of Incorporation mean the Articles of Incorporation of St. John's Park Homeowners Association, Inc., filed with the Secretary of State of the State of Georgia.

(e) Association means St. John's Park Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) Association Legal Instruments means this Declaration and all exhibits hereto, including the Association's Bylaws, and the plats, all as may be supplemented or amended.

(g) Board or Board of Directors means the elected body responsible for management and operation of the Association.

(h) Bylaws mean the Bylaws of St. John's Park Homeowners Association, Inc., attached to this Declaration as Exhibit "B" and incorporated herein by this reference.

(i) Common Property means any and all real and personal property and easements and other interests therein, together with the facilities and improvements

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

(j) Common Expenses mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, and operating the Common Property and otherwise for the benefit of all Lots.

(k) Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Property. Such standard may be more specifically determined by the Board and the ACC.

(l) Effective Date means the date that this Declaration is recorded in the Gwinnett County, Georgia land records.

(m) Eligible Mortgage Holder means a holder of a first mortgage secured by a Lot who has requested notice of certain items as set forth herein.

(n) Lot means a portion of the Property intended for ownership and use as a single-family dwelling site as permitted in this Declaration and as shown on the plats for the Property, or amendments or supplements thereto, recorded in the Gwinnett County, Georgia land records.

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

(p) Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

(q) Mortgagee or Mortgage Holder means the holder of any Mortgage.

(r) Occupant means any Person occupying all or any portion of a dwelling or other property located within the Property for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

(s) Officer means an individual who is elected by the Board to serve as President, Secretary, or Treasurer, or such other subordinate officers as the Board may determine necessary.

(t) Owner means the record title holder of a Lot, but shall not include a Mortgage Holder.

(u) Person means any individual, corporation, firm, association, partnership, trust, or other legal entity.

(v) Property means that real estate which is submitted to the Act and the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference. All plats of survey relating to the Property filed in the Gwinnett County, Georgia records are incorporated herein by reference as fully as if the same were set forth in their entirety herein. The Property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as may be amended.

3. LOCATION, PROPERTY DESCRIPTION, AND PLATS.

The Property subject to this Declaration and the Act is located in Land Lot 66, of the 7th District of Gwinnett County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. All plats of survey relating to the Property filed in the Gwinnett County, Georgia records are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

(a) Membership. Every Owner shall be deemed to have a membership in the Association. This is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. 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 (1) vote be cast nor office held for each Lot owned.

(b) Voting. Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

5. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

Except as otherwise provided herein, each Lot is hereby allocated equal liability for Common Expenses.

(a) Except as provided below, or elsewhere in the Act or the Association Legal Instruments, the amount of all Common Expenses shall be assessed against all the Lots.

(b) The Board of Directors shall have the power to assess specially pursuant to this Paragraph and to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Paragraph 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.

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

ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots may be specially assessed against such Lot or Lots.

For purposes of this subparagraph, nonuse shall constitute a benefit to less than all Lots or a significant disproportionate benefit among all Lots only when such nonuse results in an identifiable, calculable reduction in cost to the Association.

6. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

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

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

(c) to grant permits, licenses, utility easements, and other easements, permits, or licenses necessary for the proper maintenance or operation of the Property under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Property;

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

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

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

(g) to permanently or temporarily close access to any portion of the Common Property with, except in emergency situations, thirty (30) days prior notice to all Owners. However, except for seasonal closing of the pool, the Owners may re-open the closed Common Property by a majority vote of the total Association vote, cast at a duly called special or annual meeting;

(h) to enter into Lots for maintenance, emergency, security, or safety purposes, or otherwise to discharge its powers or responsibilities hereunder, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot;

(i) to acquire, lease, hold, and dispose of tangible and intangible personal property and real property; provided, however, that nothing in this section or elsewhere in this Declaration shall authorize the Board of directors to invest

any portion of the Association's funds in a day trading stock account. Any and all such investment shall be strictly prohibited.

7. ASSESSMENTS.

(a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses 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 as may be authorized by the Board.

(b) Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, to be established and collected as hereinafter provided; and (iii) 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 such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments 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.

The lien provided for herein shall have priority as provided in the Act.

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

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

ii) If part payment of assessments and related charges is made, the amount received shall be applied, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments.

iii) If the Board permits payment of the annual assessments in installments and assessments, fines or other charges, or any part thereof due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date

due, then the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment with ten (10) days written notice.

iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law and suspend the Owner's and Occupant's right to use the Common Property (provided, however, the Board may not limit ingress or egress to or from the Lot).

(d) Computation of Operating Budget and Assessment. At least thirty (30) days prior to the beginning of the Association's fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Property during the coming year. The Board shall cause the budget and notice of the assessments to be levied against each Lot for the following year to be delivered to each member at least twenty-one (21) days prior to the Association's annual meeting. The budget and the assessment shall become effective unless disapproved at a duly called annual meeting by a vote of a majority of the total Association membership; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

Notwithstanding the above, however, if the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the members, as provided in the Bylaws for special meetings, the new budget and assessment shall take effect without a meeting of the members.

(e) Special Assessments. In addition to the annual assessment provided for in subparagraph (b) above, the Board may levy a special assessment against all Owners, notice of which shall be sent to all Owners; provided, however, prior to becoming effective, the special assessment first shall be approved by the affirmative vote of at least two-thirds (2/3) of Owners present or represented by proxy at a special or annual meeting of the members, notice of which shall specify that purpose.

(f) Capital Budget and Contribution. The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) of this Paragraph. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

(g) Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the

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

(h) Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the Board's option, either be distributed equally to the Owners or credited to the next assessment chargeable to the Owners, or added to the Association's reserve account.

8. INSURANCE.

(a) The Association's Board or its duly authorized agent 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 of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(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.

(e) The Board, in its reasonable discretion, also may maintain as a Common Expense, a fidelity bond or similar coverage on directors, officers, employees or other Persons handling or responsible for the Association's funds, in an amount determined in the Board's best business judgment.

(f) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association can pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 7 of this Declaration; provided, however, no Owner

shall be assigned more than one thousand (\$1,000.00) dollars as the cost of the deductible for any one occurrence.

9. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Common Property as a result of fire or other casualty, unless eighty (80%) 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. Immediately 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 the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Lot Owners in accordance with Paragraph 7(e) above. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

(c) Plans and Specifications. Any such reconstruction or repair 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 or where improvements not in accordance with the original plans and specifications are approved by the Board. To the extent insurance proceeds are available, the Association may reconstruct or repair owner improvements damaged as a result of fire or other casualty.

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

(e) Damage to or Destruction of Dwellings on Lots. In the event of damage to or destruction of structures on a Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Paragraph 9 of this Declaration, unless a determination not to rebuild is made by the Lot Owner in cases of substantial damage or destruction. If the structure is substantially destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of

construction, and, thereafter, the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

10. ARCHITECTURAL CONTROLS.

(a) Except as otherwise provided herein, no Owner, Occupant, or any other person may, without first obtaining the written approval of the Architectural Control Committee ("ACC"),:

- i) make any encroachment onto the Common Property,
- ii) construct any dwelling on a Lot or other improvement on a Lot,
- iii) make any exterior change, alteration or construction on a Lot (including painting, regrading or significant landscaping modifications), or
- iv) erect, place or post any object, sign, antenna, clothesline, playground equipment, light, artificial vegetation, exterior sculpture, fountains, flags or other thing on the exterior of the Lot, on the dwelling on the Lot, in any windows of the dwelling, or on any Common Property.

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

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require. The ACC or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or the ACC may publish written architectural standards for exterior and Common Property alterations or additions.

Any contractor or consultant employed by an Owner must be available to the ACC or its designated representative for questions concerning the proposed plans and specifications. All costs associated therewith shall be paid by the Owner submitting the plans and specifications.

The ACC or the Board, subject to this subparagraph (a), may allow such encroachments on the Common Property as it deems acceptable.

If the ACC or its designated representative fails to approve or to disapprove such application within forty-five (45) days after the application and such information as the ACC may reasonably require shall have been submitted, its approval will not be required and this subparagraph (a) will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, the design standards, the Association's rules and regulations, or applicable zoning ordinances.

(b) Architectural Control Committee. The Architectural Control Committee shall constitute a standing committee of the Association. The ACC shall consist of the Board unless the Board delegates to other Persons the authority to serve on the ACC. The ACC shall have the authority to select and employ professional consultants to assist it in discharging its duties, the cost of such consultants to be paid by the Owner of any Lot for which plans and specifications have been submitted for approval. The Owner of any such Lot shall be responsible for paying the full costs of each review, whether or not submitted plans and specifications are approved by the ACC, and the ACC may require payment of all such costs prior to approval of plans and specifications. The ACC also may charge reasonable fees to cover the cost of review or inspections performed hereunder, and any such fees shall be published in the design standards.

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

(d) Appeal. In the event that the ACC or its designated representative disapproves any application or part thereof, an Owner shall have the right to appeal the ACC's decision to the Board of Directors. The Board shall rule on the appeal within forty-five (45) days of receiving written notice requesting an appeal from the Owner. In ruling on the appeal, the Board shall consider all relevant materials presented to it by either the Owner or the ACC, the decision of the ACC, and the application of the Owner to the ACC. The Board of Directors shall have the final authority to approve, disapprove, or conditionally approve or disapprove the application of the Owner. If the Board does not receive written notice from the Owner by certified mail requesting an appeal within fourteen (14) days from the date of the ACC's notice to the Owner of its decision, the decision of the ACC shall become final and all rights of appeal shall terminate and thereafter be void.

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

(f) Enforcement. Any construction, alteration, or other work done in violation of this Paragraph, the Declaration, the Bylaws or the design standards shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to

substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the benefited Lot.

In addition to the above, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the ACC.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Property in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain on the Common Property without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction. Furthermore, the Board shall have the authority to record in the Gwinnett County land records notices of violation of the provisions of this Paragraph.

(g) Commencement of Construction. All improvements approved by the ACC hereunder must be commenced within six months from the date of approval. If not commenced within six months from the date of such approval, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. Additionally, except with written ACC approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the ACC hereunder shall be completed within 90 days of commencement.

11. USE RESTRICTIONS.

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

Use restrictions regarding use of Lots and the Common Property are as follows and also as may be adopted by the Board in accordance with the terms hereof and as specified in the Bylaws.

(a) Use of Lots.

i) 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, except that the Owner or Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within the dwelling so long as:

- (A) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;
- (B) the business activity does not involve visitation of the dwelling by employees, clients, customers, suppliers or other business invitees in

- greater volume than would normally be expected for guest visitation to a residential dwelling without business activity;
- (C) the business activity conforms to all zoning requirements for the Property;
 - (D) the business activity does not increase traffic in the Property in excess of what would normally be expected for residential dwellings in the Property without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);
 - (E) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;
 - (F) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as determined in the Board's discretion; and
 - (G) the business activity does not result in a materially greater use of common area facilities or Association services.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this subparagraph.

(b) Number of Occupants. The maximum number of occupants in a dwelling on a Lot shall be limited to two (2) people per bedroom in the dwelling. "Occupancy," for purposes hereof, shall be defined as staying overnight in a dwelling for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a dwelling on the Effective Date hereof. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

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

(c) Subdivision of Lots and Outbuildings. No Lot may be subdivided into a smaller Lot and no structure of a temporary character, trailer, tent, shack, carport, garage, barn 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 prior written approval of the Architectural Control Committee.

(d) Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written Board consent, except as specifically provided herein.

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

(e) Prohibition of Damage, Nuisance and Noise. Without prior written Board consent, nothing shall be done or kept on the Property which would increase the rate of insurance on the Property, which would be in violation of any statute, rule, ordinance, regulation, permit or other governmental requirements, or which would increase the Common Expenses.

Noxious, destructive, offensive or unsanitary activity shall not be carried on upon the Property. No Lot Owner or Occupant may use or allow the use of the Lot or any portion of the Property at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Property. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

- (i) Any screaming, shouting, excessively loud talking, whistling, or playing of music or television if such conduct can be heard in the normal course of activities in any other residence;
- (ii) Any fighting, raucous behavior or insobriety if such conduct can be heard in the normal course of activities in any other residence;
- (iii) The use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations at any time if such sounds can be heard or vibrations felt in the normal course of activities in any other residence;
- (iv) Any threatening or intimidating conduct towards any resident, guest or pet on the Property;
- (v) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property or which creates any threat to health or safety of any other resident or pet;
- (vi) Any excessively loud play or playground activities at any time if such conduct can be heard in the normal course of activities in any other residence;
- (vii) Any conduct which creates any noxious or offensive odor at any time if such odors can be detected in the normal course of activities from any other Lot(s);
- (viii) Any similar action or activity which interferes with the peaceful use and enjoyment of other residences or the common elements by any Owner, member of his or her family, guests, invitees, or Occupants; or
- (ix) Any construction or similar activities which can be heard in other residences between the hours of 9:00 p.m. and 7:30 a.m.

However, nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof if the aggrieved Owner or Occupant has not personally pursued all available remedies against the violator for redress provided under Georgia law.

No Owner or Occupant may use or allow the use of any Lot or Common Property in any manner which creates noises between the hours of 10:00 p.m. and 7:30 a.m. which can be heard by persons in another residence that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of any other Owner, members of his or her family, guests, invitees, or Occupants.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Property or any structure thereon, would reduce the value thereof, or would impair any easement or other interest in the Property, without prior written consent of all Association members and their Mortgagees.

No damage to or waste of the Common Elements, or any part thereof, shall be permitted by any Owner or any Occupant, guest or invitee of any Owner. Each Owner and Occupant shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner or Occupant, or the Owner's or Occupant's guest or invitee.

(f) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Property is prohibited; provided, however, that the display of lawful firearms on the Common Property is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1.

(g) Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Property, as determined in the Board's discretion.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors, nor kept outdoors, except in fenced areas. 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 Board approval as provided in Paragraph 10 hereof. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Feces left upon the Common Property by dogs must be removed by the owner of the dog or the person responsible for the dog.

No potbellied pigs may be brought onto or kept at the Property at any time. Any pet which creates an unreasonable disturbance, as may be determined in the Board's sole discretion, must be permanently removed from the Property upon seven

(7) days' written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet.

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

(h) Parking. No Owner or Occupant may keep or bring onto the Property more than a reasonable number of vehicles per Lot at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules limiting the number of vehicles which may be parked at the Property. Vehicles only may be parked in designated parking spaces or other areas authorized in writing by the Board.

Disabled and stored vehicles are prohibited from being parked on the Property. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Property for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, buses, trucks and vans (excluding mini-vans, vans, pickup trucks and sport utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on a Lot or in the Community, except: (1) in garages or areas approved by the Board, or (2), in the case of service vehicles, on a temporary basis during daytime business hours for the purpose of serving a Lot.

If any vehicle is parked on any portion of the Property in violation of this subparagraph (h) or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Property stating the name and telephone number of the person or entity which will do the towing. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. The Association's right to tow is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(i) Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph (i) of this Paragraph, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's dwelling, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(j) Signs. Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee, except that one professional security sign not to exceed one (1') foot by one (1') foot in size may be displayed on a Lot and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed on a Lot being offered for sale or for lease. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing births, birthdays or other events for limited periods of time, however, in the absence of such rules, such temporary signs shall be allowed to remain on any Lot for a period not to exceed five (5) days or such other longer period as approved by the Board.

(k) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Property, temporarily or otherwise, except as provided herein. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection.

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

(l) Impairment of Dwellings and Easements. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another dwelling or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants.

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

(n) Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Common Property without prior written Board consent. If so permitted, any such activities shall be subject to all reasonable conditions that the Board may impose.

(o) Window Treatments. Unless otherwise approved in writing by the Board, all windows on a dwelling which have a base located less than six (6) feet above the interior floor of the room in which such window is located shall have window treatments, and any portion thereof which is visible from any street within the community shall be white or off-white in color.

(p) Garages. Conversion of garages into living space is prohibited.

(q) 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 Architectural Control Committee. 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. 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 Association shall have the right to erect, construct and maintain such devices.

(r) Delivery Receptacles and Property Identification Markers. The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

(s) Aesthetics and Screening. No window air conditioning units shall be visible from any street.

(t) Clotheslines. No outside clotheslines placed on any Lot shall be visible from any adjacent Lot, Common Property or street.

(u) Recreational Equipment. No recreational and/or playground equipment placed or installed on any Lot shall be located on the side or in front of the residence as such residence fronts on a street, without prior written approval of the Architectural Control Committee.

(v) Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Architectural Control Committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee may, as a condition or 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 or controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape, and required landscaping as provided for in Paragraph 10. Guidelines for this prevention and control of erosion and siltation may be included in the Design Standards of the Architectural Control Committee.

12. LEASING.

In order to protect the equity of the individual Lot Owners at St. John's Park, to carry out the purpose for which the Property was formed by preserving the character of the Property as a homogenous residential community of predominantly owner-occupied homes and by preventing the Property from assuming the character of a renter-occupied apartment complex, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Lots shall be prohibited.

(a) Definitions.

(i) "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(ii) Open Leasing Status shall authorize a Lot to be leased at any time. Each Lot at St. John's Park as of the date that this Declaration is recorded in the Gwinnett County, Georgia records shall have Open Leasing Status until the Lot is sold, at which time the Lot shall automatically be converted to Restricted Leasing Status. Unless so converted to Restricted Leasing Status, the Lot shall be in Open Leasing Status until such time as title is conveyed to any person or entity other than the person or entity holding record title on the date that this Declaration is recorded in the Gwinnett County, Georgia records, after which conveyance the Lot shall automatically be converted to Restricted Leasing Status. Open Leasing Status may also be conferred upon a Lot as provided in subparagraph (b) below.

(iii) Restricted Leasing Status shall subject a Lot to the restrictions on leasing contained in subparagraph (b) below. At such time as title of any Lot is conveyed to any person or entity other than the person or entity holding record title on the date that this Declaration is recorded in the Gwinnett County, Georgia records such Lot shall be in Restricted Leasing Status from the date of such conveyance forward unless converted to Open Leasing Status as provided in subparagraph (b) below.

(b) General. No Owner of a Lot in Restricted Leasing Status may lease his or her Lot if five (5%) percent or more of the Lots in the Property are in Open Leasing Status, except as provided in subparagraph (c) below for cases of undue hardship. Any Owner of a Lot in Restricted Leasing Status may apply in writing to

the Board of Directors for conversion to Open Leasing Status in accordance with rules and regulations promulgated by the Board of Directors. Upon receipt of such written application, the Lot shall be placed at the end of a waiting list for conversion to Open Leasing Status. At such times as less than five (5%) percent of the Lots are in Open Leasing Status, the Board shall notify the Owner of the Lot at the top of the waiting list of its conversion to Open Leasing Status, and such Owner shall have ninety (90) days within which to lease the Lot or it shall automatically revert to Restricted Leasing Status. Any Lot in Open Leasing Status shall automatically be converted to Restricted Leasing Status if the Lot is not subject to an approved lease for ninety (90) or more consecutive days.

(c) Undue Hardship. Notwithstanding the provisions of subparagraph (b) above, the Board of Directors shall be empowered to allow reasonable leasing of a Lot upon application in accordance with this Paragraph to avoid undue hardship, including, but not limited to, (1) where a Lot Owner must relocate his or her residence outside the Atlanta metropolitan area for employment purposes and cannot, within six (6) months from the date that the Lot was placed on the market, sell the Lot for a price no greater than the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Lot is being administered by his or her estate; and (3) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot, in which case the Lot Owner must reapply every year for renewal of the hardship exception. Those Owners who have complied with this subparagraph (c), have demonstrated that the inability to lease their Lot would result in undue hardship, and have obtained the requisite written approval of the Board may lease their Lots for such duration as the Board reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Lot to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. When an application is approved, the Owner shall provide the Board with the name and phone number of the lessee and the Owner's address other than at the Property and other such information as the Board may reasonably require within ten (10) days after a lease has been signed by both parties.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this subparagraph. Any transaction which does not comply with this Paragraph shall be voidable at the option of the Board of Directors.

(d) Leasing Provisions. Such leasing as is permitted by this Paragraph shall be governed by the following provisions:

(i) General. Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and, upon request, shall provide to any Owner a form which is deemed acceptable. Attached hereto as Exhibit "C" is a form which is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than twelve (12) months; provided, however, that the

Board shall have the power to allow leases for an initial term of less than twelve (12) months, on such terms and conditions as the Board may establish, upon a showing by the Owner that such a lease is required to avoid undue hardship to the Owner. Within seven (7) days after executing a lease agreement for the lease of a Lot, the Lot Owner shall provide the Board with a copy of the lease and the name of the lessee and the names of all other people to occupy the Lot. The Lot Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations.

(ii) Notice. Within ten (10) days after entering into the lease of a Lot, the Owner shall provide the Board of Directors with the name and phone number of the lessee and the names of all other people occupying the Lot, the Owner's address other than at the Property, and such other information as the Board may reasonably require. Notwithstanding anything in the Declaration to the contrary, failure to provide the above information to the Board within ten (10) days after entering into the lease of a Lot may result in a fine against the Owner for each day that the information is not provided to the Board. Nothing herein shall be construed as giving any party the right to approve or disapprove a proposed lessee.

(iii) Liability for Assessments, Use of Common Property, and Compliance with Declaration, Bylaws, and Rules and Regulations. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly stated therein, and each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(iv) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee agrees to abide and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. Owner agrees to cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto and is responsible for all violations and losses caused by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee or a person living with the lessee violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to do so. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to St. John's Park Homeowners Association, Inc., acting through the Board, the power and authority to evict the lessee on behalf of and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specially

assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

(v) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property, including, but not limited to, the use of any and all recreational facilities and other amenities.

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

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

(e) Applicability of this Paragraph 12. Leases existing on the date which this Declaration is recorded in the Gwinnett County, Georgia records shall not be subject to the terms of this Paragraph; such leases may continue in accordance with the terms of the Original Declaration as it existed prior to the recording date of this Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Paragraph. Any Owner of a Lot which is leased on the effective date of this Declaration shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Declaration is recorded in the Gwinnett County, Georgia records.

This Paragraph 12 shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

12. SALE OF LOTS.

A Lot Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give the Board written notice of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish the Board, as part of the notice, the name and address of the intended grantee and such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after closing on a Lot, the purchaser of the Lot shall give the Board written notice of his or her ownership of the Lot. Upon failure of a Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

13. MAINTENANCE RESPONSIBILITY.

(a) Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement subject to any insurance then in effect, of all landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve the Common Property, to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard. The Association shall have the right, but not the obligation, to maintain public rights of way adjacent to the Community and other property not owned by the Association if the Board determines that such maintenance would benefit the Community.

(b) Owner's Responsibility. Each Owner shall maintain and keep his or her Lot and dwelling in good repair, condition and order. In addition, each Owner shall maintain any public right of way located between the Owner's Lot and the curb of the street(s) bordering such Lot. Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Each Owner shall perform his or her responsibility hereunder in such manner so as not to unreasonably disturb other Lot Owners.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Property or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or

performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

(c) Failure to Maintain. If the Board determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be an assessment and lien against the Owner and the Lot.

If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Lot, which shall become a lien against the Lot and shall be collected as provided herein for the collection of assessments.

(d) Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Paragraph. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

15. MORTGAGEE'S RIGHTS.

(a) Unless at least two-thirds (2/3) of the first Mortgagees or Lot Owners give their consent, the Association shall not:

i) by act or omission seek to abandon or terminate the Property or the Association;

ii) change the pro rata interest or obligations of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

iii) partition or subdivide any Lot;

iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility easements

or rights-of-way for public purposes and the granting other easements for the benefit of the Association shall not be deemed a transfer within the meaning of this clause); or

v) use hazard insurance proceeds for losses to any portion of the Property (whether to Lots or to Common Property) for other than the repair, replacement, or reconstruction of such portion of the Property.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Lot Owners where a larger percentage vote is otherwise required by the Association Legal Instruments for any of the actions contained in this Paragraph.

(b) Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any Eligible Mortgage Holder will be entitled to timely written notice of:

i) any condemnation loss or any casualty loss which affects a material portion of the Common Property;

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

iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

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

(e) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 12 and 13 governing sales and leases shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

16. GENERAL PROVISIONS.

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Property; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Property. 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 Lot Owner.

The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) Dispute Resolution. Any Lot 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 officer or director, or the property manager 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 not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing.

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

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

(e) 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 therein or reasonably necessary to effectuate any such right or privilege.

17. EMINENT DOMAIN.

Whenever all or any part of the Common Property shall be taken or conveyed in lieu of or under threat of condemnation by any authority having power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five (75%) percent of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of Paragraph 9, 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.

18. EASEMENTS.

(a) Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

(b) Easements for Use and Enjoyment. Every Owner of a Lot shall have a non-exclusive and perpetual easement for access, ingress and egress of vehicular and pedestrian traffic over and across such roads and sidewalks located on the Submitted Property, as the same may exist from time to time. The rights granted herein are subject to relocation, reconstruction, repair and maintenance, to such an extent as the Association deems necessary or desirable, and are further subject to such non-discriminatory and reasonable traffic regulations as the Association deems necessary or desirable for the safe and efficient flow of such traffic. In the event such roads are dedicated to the public use, the easement rights with respect thereto shall automatically terminate.

Every Owner's right and easement of ingress and egress, use and enjoyment in and to the Common Property shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

i) the right of the Association to charge reasonable admission and other 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 thereof at certain designated times by an Owner, his or her family, tenants, guests, and invitees;

ii) the right of the Association to suspend the voting rights of an Owner and the right of an Owner to use the recreational facilities in the Property

for any period during which any assessment against his or her Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

iii) the right of the Association to borrow money as may be set forth in the Bylaws; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Property (Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Property.); and

iv) the right of the Association to grant permits, licenses or easements across the Common Property, as authorized in this Declaration or the Bylaws; and

v) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association.

vi) There is hereby reserved to the Association an easement for ingress, egress, installation, construction, landscaping, and maintenance of entry features and similar streetscapes for the Subdivision, over and upon each Lot which is bounded by the right-of-way providing primary access to the Subdivision and every other Lot located at the corner of a street intersection. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and streetscapes and the right to grade the land under and around the entry features and streetscapes.

Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the Occupants of his or her Lot, if leased.

(c) Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Property for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Property or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, electricity, cable, and storm drainage. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

(d) Easement for Entry. The Association shall have an easement to enter onto any Lot for emergency, security, safety, and for other purposes reasonably necessary for the proper maintenance and operation of the Property, which right may be exercised by the Association's Board of Directors, officers, agents, employees,

managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board.

19. AMENDMENTS.

Except where a higher vote is required for action under any other provisions of this Declaration, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Gwinnett County, Georgia land records.

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.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

20. SEVERABILITY.

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

21. DURATION.

The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

22. PREPARER.

This Declaration was prepared by Matthew C Welch, Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, 1349 West Peachtree Street, 15th Floor, Atlanta, Georgia 30309.

IN WITNESS WHEREOF, the undersigned officers of St. John's Park Homeowners Association, Inc., hereby certify that the above amendment to the Original Declaration and the following amendment to the Original Bylaws were duly adopted by the required approval of the Association and its membership.

This 15th day of November, 2001.

ST. JOHN'S PARK HOMEOWNERS ASSOCIATION, INC.

By: *Matthew Blum* [SEAL]
President

Attest: *Bub L. Han* [SEAL]
Secretary

[CORPORATE SEAL]

Sworn to and subscribed to
before me this 15th day of
November, 2001.

Jerry Grieve
Witness

Sabrina Bright
Notary Public

My Commission Expires:

[NOTARY SEAL]

SABRINA BRIGHT
Notary Public, Gwinnett County, Georgia
My Commission Expires May 29, 2005

DOCS\06607\002\documents\Declaration.04.doc

STATE OF GEORGIA

COUNTY OF GWINNETT

EXHIBIT "C"

ST. JOHN'S PARK HOMEOWNERS ASSOCIATION, INC.LEASE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____, by and between _____ (hereinafter called "Lessor"), and _____ (hereinafter called "Lessee");

W I T N E S S E T H

That, in consideration of the mutual covenants hereinafter set forth, the parties do hereby covenant and agree as follows:

1. PREMISES LEASED, TERM OF LEASE, AND OCCUPANCY. Lessor does hereby rent and lease to Lessee a Lot at _____ in St. John's Park (hereinafter the "Premises"), for a term of (not less than twelve (12) months) _____, commencing on _____, 20____, and ending on _____, 20____, midnight.

2. RENT. Lessee covenants and agrees to pay to Lessor at _____ total rent for the term equal to _____ (\$_____) Dollars which rent shall be paid in equal monthly installments of _____ (\$_____) Dollars promptly on the first day of each rental month in advance during the term of this Lease, without deduction or demand. The rent amount specified above is subject to adjustment during the term of the Lease as described in Paragraphs 3 and 8 below.

3. RENT ADJUSTMENT. It is expressly agreed and understood that, at any time, the rent due may be increased in the amount of any assessment and/or real estate tax increases incurred by Lessor during the term of this Lease. Lessor or Agent may adjust rent pursuant to the foregoing by delivering a notice of the adjustment at least thirty (30) days before such adjustment is to take effect, which notice shall be deemed delivered when (a) sent certified or registered mail to Lessee at the address of the Premises; (b) personally delivered to Lessee; or (c) left at the Premises.

4. LATE PAYMENTS AND RETURNED CHECKS. Time is of the essence in this Agreement, and if Lessor elects to accept rent after the _____ day of the month, a late charge, upon request of Lessor, of \$_____ may be charged as additional rent. In the event Lessee's rent check is dishonored by the bank, Lessee agrees to pay Lessor \$_____ as a handling charge and, if appropriate, the late charge. Returned checks shall be redeemed by cash, a cashier's check, certified check, or money order. If more than two checks are returned, Lessee agrees to pay all future

rents and charges in the form of cash, a cashier's check, a certified check, or money order.

5. SECURITY DEPOSIT. Upon the execution of this Lease, Lessee covenants and agrees to pay to Lessor a security deposit in the amount of \$_____, as security for Lessee's fulfillment of the conditions of this Lease. The security deposit will be returned to Lessee within thirty (30) days after the Premises are vacated if:

(a) the lease term has expired or this Lease has been terminated by both parties;

(b) all monies due Lessor by Lessee have been paid; and

(c) the Premises are not damaged and are left in the same condition as exists at the execution of this Lease, normal wear and tear excepted.

The deposit may be applied by Lessor to satisfy all or part of Lessee's obligations, and such application shall not prevent Lessor from claiming damages in excess of the deposit. Lessee agrees not to apply the deposit to any rent payment and also agrees to pay \$_____ for re-keying locks if all keys are not returned. Lessee acknowledges receipt of _____ keys.

In the event that any part of the deposit has been used by Lessor in accordance with the terms of this Lease or applicable law, Lessee shall upon demand immediately deposit with Lessor a sum equal to the amount so applied by Lessor so that Lessor shall have the full deposit on hand at all times during the Lease term including any extension, renewal or holdover term. In the event of any permitted assignment or sublease of this Lease by Lessee, the deposit shall be deemed to be held by Lessor as a deposit made by Lessee's assignee or sublessee, and Lessor shall have no further liability to return such deposit to the assignor or sublessor.

The foregoing notwithstanding, if Lessor is not a natural person, has used a rental agent, or leases more than ten (10) rental units:

(i) The security deposit shall be deposited in Escrow Account No. _____, at _____; and

(ii) Prior to the acceptance of a security deposit, Lessor shall present Lessee with a list signed by Lessor of all damage, if any, to the Premises, and Lessee, after having been given an opportunity to inspect the Premises to ascertain the accuracy of the list, shall either verify the list by signing it or shall notify Lessor in writing of any items on the list to which Lessee dissents.

6. ASSOCIATION IS THIRD-PARTY BENEFICIARY. Lessee and Lessor acknowledge that St. John's Park Homeowners Association, Inc. (hereinafter the "Association"), is a third-party beneficiary of the promises made in this Lease Agreement.

7. COMPLIANCE AND ENFORCEMENT BY ASSOCIATION. Lessee shall comply strictly with the Declaration of Covenants, Conditions and Restrictions for St. John's Park (hereinafter the "Declaration"), the Bylaws of St. John's Park Homeowners Association, Inc. (hereinafter the "Bylaws"), and the administrative rules and regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her

family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee, or any occupant or person living with Lessee, of any provision of the Declaration, Bylaws, or the rules and regulations adopted thereunder, shall constitute a default under this Lease.

In order to enforce the provisions of this Lease, the Association may bring an action against the Lessor or Lessee for damages or injunctive relief or may impose any other sanction authorized by the Declaration or Bylaws or available at law or in equity including, without limitation, all remedies available to a landlord upon breach or default of a lease (including eviction). Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter.

Lessor hereby delegates and assigns to the Association, acting through the Board, the power and authority to evict Lessee on behalf of and for the benefit of Lessor, in accordance with the terms hereof. In the event the Association proceeds to evict Lessee, any cost associated with the eviction, including attorney's fees and court costs, shall be specially assessed against the Premises and shall be a personal obligation of Lessor, such being deemed hereby as an expense which benefits the leased Premises and Lessor.

Lessee and Lessor hereby represent that Lessee has been given a copy of the Declaration, Bylaws, and rules and regulations of St. John's Park Homeowners Association, Inc., that Lessee has read them, and that Lessee is bound by them.

If Lessee or a person living with Lessee violates the Declaration, Bylaws or a rule or regulation for which a fine is imposed, such fine may be assessed against Lessee; provided, however, if the fine is not paid by Lessee within the time period set by the Board of Directors of the Association, Lessor shall pay the fine upon notice from the Association of Lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Premises.

8. PAYMENT OF ASSESSMENTS. Upon request by the Association, Lessee shall pay to the Association all unpaid annual assessments and special assessments, as lawfully determined and made payable during and prior to the term of the Lease and any other period of occupancy by Lessee; provided, however, Lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Association's request. All such payments made under this Paragraph shall reduce, by the same amount, Lessee's obligation to make monthly rental payments to Lessor. If Lessee fails to comply with the Association's request to pay assessments, Lessee shall pay to the Association all late or delinquent charges, interest, and costs of collection including, but not limited to, reasonable attorney's fees actually incurred, to the same extent Lessee would be required to make such payments to the Association if Lessee were the owner of the Premises during the term of this Lease and any other period of occupancy by Lessee.

9. POSSESSION. Lessor shall not be liable for damages to Lessee for failure to deliver possession of the Premises to Lessee at the commencement of the term if such failure is due to no fault of the Lessor. Lessor shall use his or her best efforts to give possession of the Premises to the Lessee at the beginning of Lessee's term.

10. MAINTENANCE AND INDEMNIFICATION. Lessee accepts the Premises in the condition in which they are now and as suited for the use intended by Lessee. Lessor shall not be required to make any repairs or improvements on the Premises, except that on written notice from the Lessee of any defect rendering the Premises unsafe or untenantable, Lessor shall remedy such defective condition. Lessee shall comply with all notices and other requirements, including the Declaration, Bylaws and rules and regulations of the Association concerning maintenance and repair. Lessee shall be liable for and shall indemnify and hold Lessor harmless from any damage or injury to the person or property of Lessee or any other person if such damage or injury be due to the act or neglect of the Lessee or any other person in his or her control or employ, or if such damage or injury be due to any failure of Lessee to report in writing to Lessor any defective condition which Lessor would be required to repair under the terms hereof on notice from Lessee. Lessee releases Lessor from liability for and agrees to indemnify Lessor against all losses incurred by Lessor as a result of (a) Lessee's failure to fulfill any condition of this Agreement; (b) any damage or injury happening in or about the Premises to Lessee's invitees or licensees or such person's property; (c) Lessee's failure to comply with any requirements imposed by any governmental authority and as provided in Paragraph 7 hereof; and (d) any judgment, lien, or other encumbrance filed against the Premises as a result of Lessee's action. All personal property located or stored in the Premises or on Common Property of St. John's Park shall be kept and stored at Lessee's sole risk, and Lessee shall indemnify and hold harmless Lessor and the Association from and against any loss or damage to such property arising out of any cause whatsoever. Lessor and the Association shall not be liable, except in the case of Lessor's direct negligence or willful misconduct, for any injury, damage, or loss resulting from any accident or occurrence in or upon the Premises or the Common Property and facilities sustained by Lessee or by any person claiming through Lessee.

11. USE AND OCCUPANCY. The Premises will be used solely for the purpose of Lessee's residence. Lessee shall not use or allow the Premises to be used for any disorderly or unlawful purposes or in any manner offensive to others, and Lessee shall comply with all applicable laws, ordinances, covenants and rules and regulations. Lessee shall not paint, redecorate, remodel or make any structural changes to the Premises, nor shall Lessee remove or replace any fixtures on or from the Premises. Lessee shall not damage, destroy or commit waste on the Premises, nor permit any other person to damage, destroy or commit waste on the Premises.

Lessor transfers and assigns to Lessee for the term of this Lease any and all rights and privileges that Lessor has to use the Common Property of St. John's Park including the recreational facilities and other amenities.

Lessee shall limit occupancy of Premises to a single family. The term "single family" shall mean one or more persons, provided all persons occupying the Lot are related by blood, adoption or marriage. If all persons occupying a Lot are not related by blood, adoption or marriage, then occupancy shall be limited to a maximum of three (3) persons; provided, however, that persons occupying a Lot who are interrelated by blood, adoption, or marriage may occupy that Lot with one (1) person who is not related by blood, adoption or marriage. The words "by blood" shall be deemed to include only children, parents, grandchildren, grandparents, brothers, sisters, nephews, nieces, uncles, aunts and first cousins and no other degree of kinship. "Occupancy" for purpose of this Lease Agreement shall be defined as staying overnight in a Lot for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any one year period.

12. PETS OR ANIMALS. Lessee shall keep only those pets or animals that comply with the Declaration and the rules and regulations adopted by the Board of Directors, and then only with prior approval from Lessor.

13. ASSIGNMENT AND SUBLEASING. Lessee shall not assign this Lease or sublet the Premises or any part thereof without the written permission of Lessor and the Board of Directors of the Association, pursuant to its duly adopted rules and regulations.

14. CASUALTY. If the Premises are rendered untenable by fire, storm, earthquake or other casualty, this Lease shall terminate as of the date of such destruction or damage, and rental shall be accounted for as of that date.

15. ACCESS. Lessor, his or her agents, and the agents of the Association shall have the right of access to the Premises, upon notice to Lessee, between the hours of 8:00 a.m. and 8:00 p.m., to inspect, maintain, and improve the Premises, and for the purpose of showing the Premises to prospective tenants during the last month of the lease term. In case of emergency, such parties may enter at any time to prevent property damage or personal injury.

16. DISCLOSURE. Lessor, as the owner of record of the Premises, or the person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for demands and notice is:

_____ (owner) (agent)

_____ (address)

17. HOLDOVER. Lessee shall not remain in possession of the leased Premises after the expiration of this Lease. Any holding over of the leased Premises by Lessee after the expiration of this Lease without a written renewal thereof or written consent from Lessor or Lessor's agents and written approval of the Board of Directors of the Association shall not constitute a tenancy-at-will by Lessee, but Lessee shall become a tenant-at-sufferance. There shall be no renewal whatsoever of this Lease by operation of law. The Association, as attorney-in-fact on behalf of Lessor, shall be empowered to bring an action to evict Lessee in the event that Lessee holds over beyond the term of this Lease.

18. SURRENDER. Whenever under the terms hereof Lessor is entitled to possession of the Premises, Lessee shall at once surrender the Premises to Lessor in as good condition as at present, natural wear and tear excepted, and Lessor may forthwith reenter Premises and repossess himself or herself thereof and remove all persons and effects therefrom, using such force as may be necessary without being guilty of forcible entry or detainer, trespass, or other tort.

19. ABANDONMENT. If Lessee removes or attempts to remove property from the Premises other than in the usual course of continuing occupancy without first having paid Lessor all monies due, the Premises may be considered abandoned, and Lessor shall have the right without notice, to store or dispose of any property left on the Premises by Lessee. Lessor shall also have the right to store or dispose of any of Lessee's property remaining on the Premises after termination of this Agreement. Any such property shall be considered Lessor's property, and title thereto shall

rest in Lessor. Lessor shall have the right to re-rent the Premises after Lessee abandons same.

20. DEFAULT. Any breach or violation of any provision of this Lease by Lessee shall give Lessor the right to terminate this Lease or to take possession and hold Lessee liable for the remainder of the term. Should possession be obtained, Lessor, at Lessor's option, may re-rent the Premises as Lessee's agent at the risk and cost of the defaulting Lessee, whose default shall not relieve him or her of liability for the difference between the rent herein reserved and the rent actually received by Lessor during the term remaining after such default occurs.

21. CONDEMNATION. In the event that the Premises or any part thereof (other than Common Property, the taking of which does not prevent continued occupancy of the Premises) is taken by any authority exercising the power of eminent domain, this Lease shall terminate as of the date possession shall be taken by the condemnor. Lessee waives all claims against Lessor or any condemning authority by reason of the complete or partial taking of the Premises, and shall not be entitled to receive any part of any award which Lessor may receive, hereby quitclaiming all interest therein to Lessor.

22. SUBORDINATION OF RIGHTS. Lessee's and Lessor's rights shall be subject to all rights of the Association and any bona fide mortgage or deed to secure debt which is now or may hereafter be placed upon the Premises by Lessor.

23. ENTIRE AGREEMENT AND WAIVER. This Lease contains the entire agreement of the parties, and no representation, inducement, promises or agreements not contained herein shall be of any force or effect. No failure of Lessor to exercise any power given Lessor hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

24. REMEDIES CUMULATIVE. All remedies under this Lease or by law or equity shall be cumulative. If suit for any breach of this Lease establishes a breach by either Lessor or Lessee, the party found in breach shall pay to the other party all expenses incurred in connection therewith, including, but not limited to, attorney's fees.

25. ILLEGAL ACTIVITIES. The conduct of any unlawful activities on the Premises shall constitute a breach of this Lease.

26. SUCCESSORS. This Lease shall inure to the benefit of and shall bind the heirs, successors, personal representatives, and assigns of all parties to this Lease.

27. TERMINATION OF LEASE UPON SALE OF LOT. If at any time during the term of this Lease, Lessor contracts for the sale of the Lot, the Lessor shall send Lessee written notice of such proposed sale stating the date on which Lessee must vacate the Lot, which date shall not be later than _____ (the date the lease terminates). Lessee shall have at least thirty (30) days from the date of the notice to vacate the Lot; provided, however, that Lessee shall vacate the Lot on or before _____ (the date the lease terminates) if notice of sale is sent less than thirty days prior to the date this Lease Agreement terminates. If Lessee is required to vacate the Lot pursuant to this Paragraph, this Lease shall terminate upon the date which Lessee is required to vacate the Lot as stated in the notice of sale.

28. SPECIAL STIPULATIONS.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

LESSOR:

(Signature)

Name:

(Please Print)

LESSEE:

(Signature)

Name:

(Please Print)