

61400480
AFTER RECORDING RETURN TO:

F. M. SCHNEIDER
MORRIS & SCHNEIDER, P.C.
~~2500 RILEY RIDGE PARKWAY~~
~~ATLANTA, GA 30339~~

REC'D MAR 12 2005
FILED
SUPERIOR COURT
JACKSON COUNTY, GA

DECLARATION OF PROTECTIVE COVENANTS FOR

MEADOWCREEK FARMS SUBDIVISION REBA PARKS, CLERK

THIS DECLARATION is made on the date hereinafter set forth by RMB INVESTMENTS, LLC. (hereinafter sometimes called "Declarant");

WHEREAS, Declarant is the owner or if not the owner has the written consent of the owner of the real property described in Article II, Section 1, of this Declaration; and

WHEREAS, Declarant desires to subject the real property described in Article II, Section 1, hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration;

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

Article I
Definitions

Unless the context shall prohibit, certain words used in this Declaration shall have the definitional meaning set forth in Exhibit "A", attached hereto and by reference made a part hereof.

Article II
Property Subject To This Declaration

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

Section 2. Other Property. Currently, only the real property described in Section 1 of this

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Article II is hereby made subject to this Declaration; provided, however, by one or more amendments to this Declaration, Declarant and the Association have the right, but not the obligation, to subject other real property to this Declaration, as hereinafter provided.

Article III
Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing 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. 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 By-Laws. 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. For purposes of voting there shall be two (2) classes of Members as set forth in the section below.

Section 2. Voting Rights.

(a) Each lot owner of a Lot, with the exception of declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote per Lot owned by such Owner. Where such owner is a group or entity other than one individual person; the vote on behalf of such owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the Secretary of the association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one Person seeks to exercise it.

(b) The Declarant shall be the sole Class B member and shall be entitled to three (3) votes for each Lot owned; provided, however, in no event shall the Class B member have less than the total number of Class A votes plus one (1). The Class B membership shall cease and be converted to a Class A Membership at such time as Declarant no longer retains the right to appoint and remove members of the Board and officers of the Association pursuant to the within Declaration of Protective Covenants.

(c) The development will be composed of Lots to be developed in phases containing unequal numbers of Lots. Each such phase will be platted of record in the office of the Clerk of the Superior Court of Jackson County. The Declarant shall notify the Association in writing when the final phase of the Development has been platted of record. By acceptance of a deed conveying a Lot, each owner acknowledges that, upon the annexation of additional real property composed of lots pursuant to this declaration, the total votes outstanding in the Association will automatically increase based upon the number of lots in the phases added and in accordance with the formulas set forth, provided however, nothing contained herein shall obligate the declarant to develop any proposed phase of the Development unless such phase is subjected to this

Declaration.

Section 3. Control By Declarant.

(a) Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the By-laws of the Association, Declarant hereby retains the right to appoint and remove any members of the board of the Association, and any officers or officer of the Association until the first of the following shall occur: (i) the expiration of Twenty years from the date of the recording of the Declaration; (ii) the date upon which (75%) percent of all of the Residences submitted or proposed to be submitted by declarant to be a part of the Development have been conveyed by Declarant to Owners other than a person or persons constituting Declarant; or (iii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant, provided, however that the Owners may be entitled to elect certain members of the Board of the Association in accordance with the terms of the By-Laws of the Association which shall not be removable by the Declarant acting alone.

(b) Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners; including Declarant if Declarant then owns one or more Lots; and a special meeting of the Association shall be called at such time. At such special meeting owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board and Declarant and shall deliver the books, accounts, and records, if any which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which declarant has in its possession. The Association may exercise any other rights of or privileges given to it expressly by this Declaration or by law and any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Article IV
Assessments

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

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges,

interest, not to exceed the maximum legal rate, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgage holder taking title through foreclosure proceedings or deed in lieu of foreclosure.

Assessments shall be paid at a uniform rate per Lot in such manner and on such dates as may be fixed by the board of directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by the board, the assessment shall be paid in annual installments.

Section 3. Computation. It shall be the duty of the board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The board shall determine the assessment to be levied against each Lot for the following year and shall cause such assessment to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The assessment shall become effective unless disapproved at a meeting by a Majority of the Owners and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article IX hereof, the Declarant. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed assessment or the board fails for any reason so to determine the assessment for the succeeding year, then and until such time as an assessment shall have been determined, as provided herein, the assessment in effect for the then current year shall continue for the succeeding year.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable to each Lot does not exceed Three Hundred (\$300.00) Dollars in any one fiscal year, the board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a Majority of the Owners and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article IX hereof, the Declarant. Special assessments shall be paid as determined by the board, and the board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens of ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the land records of the county where the Community is located

and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such *instrument*.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in such amount as the board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the board shall determine, institute suit to collect such amounts and to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

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

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots then existing and subject to assessment under this Declaration on the first day of the month following the conveyance of the first Lot by the Declarant to a Person other than Declarant and shall be due and payable in a *manner* and on a schedule as the board of directors may provide.

Section 8. Assessment Obligation of Declarant.

(a) After the commencement of assessment payments as to any lot, Declarant, on behalf of itself and its successors and assigns covenants and agrees to pay the full amount of the assessments provided herein for each Lot it owns containing an occupied residence; provided, however, each Lot owned by Declarant which does not contain an occupied residence shall not be subject to any assessment provided for herein.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in-money, (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

(c) For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may: (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant; or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

Section 9. Specific Assessments. The board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the board to exercise its authority under this Section shall not be grounds for any action against the Association or the board of directors and shall not constitute a waiver of the board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the board has not previously exercised its authority under this Section. The board may specifically assess Lots for the following Association expenses:

(a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received.

(b) Expenses of the Association which benefit all Lots, but which do not provide an equal

benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Article V Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall maintain all entry features for the Community, all street signs originally installed by the Declarant, any pedestrian easements created pursuant to Article XI, hereof, which is located within the Community or which is made available for the use and enjoyment of Owners.

In addition, the Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

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

Section 3. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction of the Lots which shall serve and separate any two (2) adjoining Lots shall

constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall may restore it, and if the other Owner or Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the board of directors, the board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a Majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

Article VI Use Restrictions and Rules

Section 1. General. The board of directors may, from time to time, without consent of the members, promulgate, modify, or delete use restrictions and rules and regulations applicable to the Lots and the Common Property. This authority shall include, but shall not be limited to, the right to limit the type and size and to set the maximum and minimum speeds of vehicles within the Community. The board shall also have the authority to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the Community. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting by the vote of Owners holding a Majority of the total votes in the Association and by the vote of the Declarant, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article IX hereof.

Section 2. Use of Lots. All Lots shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on or upon any Lot at any time except with the prior written approval of the board. Leasing of a Lot shall not be considered a

business or business activity.

Section 3. Signs. No sign of any kind shall be erected by an Owner within the Community without the written consent of the board except: (a) such signs as may be required by legal proceedings; and (b) not more than one "For Sale" sign consistent with the Community-Wide Standard, having a maximum area of four square feet. The board shall have the right to erect any reasonable and appropriate signs.

Section 4. Vehicles. Vehicles shall not be parked on any subdivision street. Vehicles shall not be parked on any portion of a Lot other than the driveway and the garage. Except for automobiles and passenger trucks, vehicles shall not be parked, so as to be visible from any Lot for periods of more than twenty-four (24) continuous hours. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, scooters, trucks, campers, buses and automobiles. Vehicles that are not Drivable may not stay in the Driveways of the residences. No ATV's, Dirt Bikes, or Four Wheelers may be operated on the lots in the subdivision nor on the subdivision streets.

Section 5. Leasing. Lots may be leased for residential purposes.

Section 6. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Lot.

Section 7. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the board; provided, however, those pets which are permitted to roam free, or, in the Sole discretion of the board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community may be removed by the board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

Section 8. Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of his or her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community.

Section 9. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

Section 10. Architectural Standards. No exterior construction, alteration, addition, or structure of any nature whatsoever (including, without limitation, fences, pools, tennis courts, exterior lighting, treehouses and play equipment) shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, structure, or alteration shall be made unless and until the plans and specifications showing the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by the board or its designee. The board or its designee may promulgate written guidelines for the exercise of this review.

The board or its designee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the board or its designee or the representatives thereof shall have the right, during reasonable hours, to enter upon any Lot to inspect any Lot and any improvements thereon for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry. In the event the board or its designee fails to approve or to disapprove such design and location within sixty (60) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with.

Section 11. Antennas. No exterior antennas of any kind shall be placed, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the board or its designee. The board reserves the right to (but shall not be obligated to) erect a master antenna, satellite dish or other similar master system for the benefit of the Community.

Section 12. Gardens. Basketball Goals. Etc. Grass, ornamental plants and shrubbery (and only the foregoing) may be planted in the front or side yard of any Lot. All other planting in the front or side yard may be done only with prior written approval of the board or its designee or in accordance with the guidelines previously established by the board or its designee. Overseeding of fescue lawns and sodding of lawns with Bermuda or zoysia grasses shall not require prior approval pursuant to this Section. No vegetable garden, hammocks, statuary, or recreational equipment may be placed, erected, allowed or maintained upon the front or side yard of any Lot without the prior written consent of the board or its designee. This provision shall not, however, apply to basketball goals. Basketball goals may be installed after the type and location has been previously approved in writing by the board or its designee. The initial guidelines at the time of the signing of these covenants shall be that permanent basketball goals shall be installed only at the rear of the driveway turnarounds or the inside end of driveways which is closest to the dwelling on side entry garages. In any event any placements of basketball

goals must have prior approval of the architectural control committee.

Section 13. Tree Removal. No trees which are left on the Lot at closing shall be removed without the express consent of the board or its designee, except for (a) diseased or dead trees; and (b) trees needing to be removed to promote the growth of other trees.

Section 14. Lighting. Notwithstanding Article VI, Section 10 above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the board or its designee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards of a Lot; (c) illumination of a model home and entrance features constructed by the Declarant; and (d) other lighting originally installed by the Declarant. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI, Section 10. Only decorative post lights in conformity with established street lighting shall be approved.

Section 15. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only obstructions or debris shall be placed in these areas. No Owner of any Lot may obstruct or rechannel the drainage flows after installation of drainage swales, storm sewers, or storm drains are located. Declarant reserves the right to prepare sloping banks, cut or fill, on a three (3) to one (1) slope on all streets and roads.

Section 16. Sight Distance at Intersections. All Lots at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain at the corner of a Lot where this would create a traffic or sight problem.

Section 17. Clotheslines. Garbage Cans. Woodpiles. Etc. All clotheslines, garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. Declarant, however, hereby expressly reserves the right to dump and bury construction debris and trees on Lots as needed for efficient construction.

Section 18. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the board or its designee. Declarant, however, hereby expressly reserves the right to replat any Lot(s) or other property in the Community. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 19. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and small firearms of all types.

Section 20. Solar Devices. No artificial or man-made -device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the board or its designee.

Section 21. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the board or its designee. The board or its designee may issue guidelines detailing acceptable fence styles or specifications, but in no event may a chain link fence or hog wire fence visible from any street be approved.

Section 22. Exterior Colors. The exterior of all improvements, including, without limitation, residences, constructed, erected, allowed, or maintained upon any Lot must be painted or repainted in a color used or approved by Declarant in the original construction and marketing of residences within the Community or in a color used by the builder, in the original construction and marketing of residences in any subdivision located within the same county as the Community.

Section 23. Mailboxes. All mailboxes and mailbox posts shall be of the same type and color as that originally installed or approved by the Declarant.

Section 24. Detached Structures. No detached metal structure shall be placed, erected, allowed, or maintained upon any Lot.

Section 25. Entry Features and Street Signs. Owners shall not alter, remove or add improvements to any entry features or street signs constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the board or its designee.

Section 26. Window Treatments. Professional Window Treatments such as Blinds must be on the windows facing the front of the house where the driveway enters the street.

Article VII Insurance and Casualty Losses

Section 1. Insurance. The Association's board of directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Property or required to be maintained by the Association under Article V, Section 1 hereof. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the board may purchase "all-risk" coverage in like amounts.

If available at reasonable cost, as determined in the sole discretion of the board, the board shall obtain a public liability policy applicable to the Common Property insuring the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars. If available at reasonable cost, as determined in the sole discretion of the board, the board shall also obtain directors' and officers' liability insurance. The board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through the Declarant and to reimburse

Declarant for the cost thereof, and Declarant shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant and Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the board shall not be required to comply with the provisions of this Article if the board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the board of directors shall be written in the name of the Association, as trustee, for the respective benefitted parties, as further identified in subparagraph (b), below. Such insurance shall be governed by the provisions hereinafter set forth:

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

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

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

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.

(e) The Association's board of directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

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

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

(iii) that no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

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

(vi) that no policy may be canceled, subjected to nonrenewal, or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to other insurance coverage required by this Section, the board shall obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if available at reasonable cost, as determined in the sole discretion of the board, a fidelity bond or employees dishonesty coverage covering directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the directors' best business judgment. Such coverage, if obtained, shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall not be subject to cancellation, nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of The Mortgage Corporation or the Federal National Mortgage Association.

Section 2. Damage and Destruction -- Common Property.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the board of directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable *and* detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used *in this* Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty allowing for any changes or improvements necessary to comply with applicable building codes. The board of directors shall have all enforcement powers specified in Article XII, Section 1, of this Declaration necessary to enforce this provision.

(b) Repair and Reconstruction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five (75%) percent of the Owners and the Declarant, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article IX hereof, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both,

are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the board of directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the *funds* available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 3. Damage and Destruction of Lots. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the board of directors shall have all enforcement powers specified in Article XII, Section 1, of this Declaration.

Article VIII Condemnation

Whenever all or any part of the Common Property shall be taken or conveyed in lieu of and under threat of condemnation by the board, acting on its behalf or on the written direction of all owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article VII, Section 2, above, applicable to Common Property improvements damage or destruction, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

Article IX Annexation of Additional Property

Section 1. Unilateral Annexation By Declarant.

(a) Until 20 years after the date of the recording of this declaration, or until Declarant surrenders his right to annex real property pursuant hereto, whichever is earlier, Declarant may annex any real property without the consent of Class A members. Such annexation shall be accomplished by filing in the office of the Clerk of the Superior Court of Jackson County an approved subdivision plat describing the real property to be annexed to the property and by including on such subdivision plat a statement that expressly sets forth the Declarants intention to make such annexed property subject to the provisions of this Declaration; or by filing an amendment to the Declaration which shall be executed by Declarant and has been consented to by the owners of the real property to be annexed if any portion of such real property is owned by someone other than Declarant. After twenty years from the date of the recording of this Declaration, or after Declarant surrenders his rights to annex real property pursuant hereto, whichever is earlier, no real property may be annexed to the property unless such annexation is approve by two-thirds vote of the members of the association. The provision hereof shall be expressly subject to the provisions of Article X of this Declaration.

(b) The rights reserved unto Declarant to subject additional land to the Declaration will not and shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 2. Other Annexation. Subject to the consent of the Owner thereof, the consent of the Declarant, so long as the Declarant has an option to subject additional property to this Declaration as provided above, and upon the affirmative vote or written consent of Owners representing a two-thirds (2/3) of the total Association vote, the Association may annex other real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the office of the Clerk of the Superior Court of the county in which the property to be annexed is located an amendment to this Declaration describing the property being annexed. Any such amendment to this Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such amendment to this Declaration, unless a later effective date is provided therein.

Article X Mortgagee Provisions

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

Section 1. Notices of Action.

I. As used in this Section, the term "Eligible Holder" shall mean a holder, insurer or guarantor or a first mortgage on a Lot which has requested notice in accordance with the

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

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

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;

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

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

(e) Any proposed amendment of the declaration effectuating a change in (A) the boundaries of any Lot or the exclusive easement rights appertaining thereto; (B) the interests in the Common Property or the liability for common expenses appertaining thereto; (C) the number of votes in the association appertaining to any Lot; or (D) the purposes to which any Lot or the Common Property are restricted;

(f) any proposed termination of the administration of the Common Property pursuant to this Declaration;

(g) an annual financial statement, or audit if available, of the association for the immediately preceding fiscal year, free of charge.

II. To the extent permissible under the Law of the State of Georgia, the following provisions shall apply:

(a) Any restoration or repair of the Common Property after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval of the Eligible Holders of first mortgages on Lots to which at least fifty one (51%) percent of the votes of Lots subject to mortgages held by such Eligible Holders are allocated, is obtained.

(b) Any election to terminate the administration of the Common Property pursuant to this Declaration after substantial destruction or substantial taking in condemnation of the Property must require the approval of the Eligible Holders of first mortgages on Lots to which at least

fifty-one (51%) percent of the votes of Lots subject to mortgages held by such eligible Holders are allocated.

III. The following provisions do not apply to amendments to the constituent documents or terminating of the Association pursuant to the within paragraph II. hereof made as a result of destruction, damage, or condemnation or to the addition of land pursuant to any plans of expansion or phased development previously approved by the Department of Housing and Urban Development (HUD) or the Veterans Administration (VA) to the extent such approval is required by HUD or the VA:

(a) the consent of owners representing at least sixty seven (67%) percent of the Class "A" votes and of the Declarant, so long as it holds any land subject to this Declaration, and the approval of the Eligible Holders of first mortgages on Lots to which at least sixty seven (67%) percent of the votes of Lots subject to a mortgage appertain, shall be required to terminate the administration of the Property subject to this Declaration.

(b) The consent of owners representing at least sixty seven (67%) of the Class "A" votes and of the Declarant, so long as it holds any land subject to this Declaration, and the approval of Eligible Holders of first mortgages on Lots to which at least fifty-one (51%) of the votes of Lots subject to a mortgage appertain, shall be required to materially amend any provisions of this Declaration, the ByLaws, or the Articles of Incorporation to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of the common property;
- (iv) Insurance or fidelity bonds;
- (v) Rights to use of the Common Property;
- (vi) Responsibility for maintenance and repair of the several portions of the property;
- (vii) Expansion or contraction of the Property or the addition, annexation, or withdrawal of land to or from the Property;
- (viii) Boundaries of any Lot;
- (ix) Convertibility of Lots into Common Property or of Common Property into Lots;
- (x) Leasing of Lots;
- (xi) Imposition of any right of first refusal or similar restriction on the right of a Lot owner to sell, transfer, or otherwise convey his or her Lot;
- (xii) Establishment of self-management by the association where professional management, if any, has been employed;
- (xiii) The approval of Eligible Holders of first mortgages on Lots to which at least fifty-one (51%) percent of the votes of Lots subject to a mortgage appertain, shall be required to amend any provisions included in this Declaration, the By-Laws or the Articles of Incorporation which are for the express benefit of holders or insurers of first mortgages on Lots.

(c) The provision of this Section shall not be construed to reduce the percentage vote

that must be obtained from mortgagees of Lot Owners where a larger percentage vote is otherwise required by applicable law or in any other provision in the Declaration, the By-Laws or the Articles of Incorporation

which are for any of the actions contained in this paragraph.

Section 2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation (The Mortgage Corporation), the following provisions apply in addition to and not in lieu of the foregoing. Unless two-thirds (2/3) of the first Mortgagees or at least two-thirds (2/3) of the total members of the Association entitled to vote thereon, give their consents the Association shall not:

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

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

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

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

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

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

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

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

Section 4. Notice to Association. Upon request, each Lot owner shall be obligated to

furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 5. Amendments by Board. Should the Department of Housing and Urban Development (HUD), the Veterans Administration (VA), the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 6. VA and HUD Approval. As long as there is a Class B membership, the following actions shall require the prior approval of the Veterans Administration so long as the Veterans Administration is guaranteeing any Mortgage in the Community and the prior approval of HUD as long as HUD is insuring any mortgage in the property; annexation of additional property to the Community, except for annexation by Declarant in accordance with Article IX hereof pursuant to a plan of annexation previously approved by the VA or HUD; dedication of Common Property to any public entity; and material amendment of the Declaration, By-Laws or Articles of Incorporation.

Section 7. Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Georgia law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Article XI Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and 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, tenant, or the Association.

Section 2. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the

title to his 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 family, tenants, guests, and invitees;

(ii) the right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the recreational facilities in the Community, if any, for any period during which any assessment against his Lot which is hereby provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, By-Laws, or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities equipping and maintenance of the common property, and give as security for the payment of any such deed to secure debt, mortgage or other security interest any or all of the Associations property including Common Property and revenues from assessments, user fees, and other sources; and provided however, that the Association shall not deed, grant or convey to anyone any mortgage, deed to secure debt or other security instrument on or in Common Property constituting real estate without approval by Two-Thirds (2/3) vote of the Members of the Association and Declarant during the period when the Declarant has the right to appoint members of the board.

(iv) 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. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least two-thirds (2/3) vote of the members of the Association, or represented by proxy, at a meeting duly called for such purpose and by the Declarant, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided herein.

(b) 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 family, his tenants and guests and shall be deemed to have made a delegation of all such rights to the occupants of such Owner's Lot if leased.

Section 3. Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Association as 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 utility or service. Should any party utility or service request a specific furnishing any such license or easement by separate recordable document, the board shall have the right to grant such easement.

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

Article XII General Provisions

Section 1. Enforcement. Each Owner and every occupant of a Lot shall comply strictly with the By-Laws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed to his or her Lot, if any. The board of directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-Laws or-the-rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the board of directors, on behalf of the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the By-Laws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law; provided, however, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provisions shall be automatically extended for successive periods of ten (10) years, unless such extension is disapproved by at least a Majority of the Association vote present, in person or by proxy, at a meeting duly called for such purpose and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as

provided in Article IX hereof, the consent of Declarant. Such meeting must be held and a written instrument reflecting disapproval must be recorded within the year immediately preceding the beginning of a ten (10) year renewal period. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment

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

(b) Amendments by Association Amendments to this Declaration, other than those authorized above, shall be proposed and adopted in the following manner:

(i) notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered

and shall be delivered to each Member of the Association.

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

(iii) The agreement of the required percentage of the Owners and where required, the Declarant and any mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

Section 5. Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all mortgages encumbering any portion of the property, including, but not necessarily, limited to, the Lots located within the Community.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 9. Variances. Notwithstanding anything to the contrary contained herein, the board of directors or its designee shall be authorized to grant individual variances from any of

the provisions of this Declaration, the By-Laws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 10. Conveyance of Common Property by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its Members. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance or easement that such real property is to be common property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or portion thereof shall not be used for any different purpose or purposes without the written consent of two-thirds (2/3) vote of the Members of the Association and Declarant during the period when the Declarant has the right to appoint members of the Board.

Section 11. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 12. Indemnification. In accordance with Section 14-3-110 of the Georgia Nonprofit Corporation Code, and to the full extent allowed in Section 14-2-156 of the Georgia Business Corporation Code, and in accordance with the provisions contained therein, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized (as provided in Section 14-2-156 of the Georgia Business Corporation Code) in a specific case upon a determination that indemnification of the person is proper under the circumstances.

Section 13. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the By-Laws, Articles of Incorporation, rules and regulations, use restrictions, and any amendments to any of the foregoing, the Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with

respect to the Community for the benefit of the Declarant, its successors, and assigns over, under, in, and or on the Community, without obligation and without charge to the Declarant, for the purposes of taking all actions related to or connected with construction, installation, relocation, development, sale, maintenance, repair, or replacement in the Community and any other property now owned or which may in the future be owned by the Declarant, (such other property is hereinafter referred to as "Additional Property"). The reserved easement shall constitute a burden on the title to the Community and specifically includes, but is not limited to:

(a) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in the Community; and the right to tie into any portion of the Community with streets, driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee payable to the Association or any Owner for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and or over the Community;

(b) the right to use continually or from time to time without charge any clubhouse or similar structure and appurtenant recreational facilities constructed by the Declarant in the Community for business purposes or company functions of the Declarant and any similar use, including but not limited to, sales and marketing meetings, offices for Declarants sales or other employees and agents, a design studio, and employee parties; and

(c) the right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, and sales offices in the Community.

No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the Community, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from the Declarant releasing such right, privilege, or easement by express reference thereto.

If these reserved easements are exercised without annexing any Additional Property to the Community, the Owners of the affected Additional Property shall share the costs, if any, of using and maintaining utility and similar facilities, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities with the Owners in the Community in the proportion that the number of completed dwellings on the affected Additional Property bears to the total number of completed dwellings upon the affected Additional Property and the number of Lots in the Community. The costs of maintenance and repair of Community streets and driveways shall likewise be apportioned to the affected Additional Property if the only means of vehicular access to the affected Additional Property is across the Community. For the purposes of this provision, a dwelling on the affected Additional Property shall be considered completed when a certificate of occupancy has been granted. The allocation of expenses and the collection therefor may be done on a monthly, quarterly, or annual basis as may reasonably be determined by the Association in accordance with this Declaration. If any of the Additional Property is added to the Community, from the time of the annexation, the sharing of costs and expenses and the use of any property so added shall be governed by this Declaration, rather than

by these reserved easements.

This Section shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any property primarily for development and/or sale in the Community or subject to annexation to the Community.

Section 14. Books and Records.

(a) Inspection By Members and Mortgagees. This Declaration, the By-Laws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative-and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the board shall prescribe.

(b) Rules for Inspection. The board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records:

(ii) hours and days of the week when such an inspection may be made; and of documents.

(iii) payment of the cost of reproducing copies

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

Section 15. Financial Statements. Financial statements for the Association shall be compiled annually in the *manner* as the board of directors may decide; provided, however, after having received the board's financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements of the Association be audited as common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all costs associated therewith, such holder shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

Section 16. Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the board may reasonably require.

Section 17. Agreements. Subject to the prior approval of Declarant, so long as the Declarant has an option to unilaterally subject additional property to this Declaration as provided

in Article IX above, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the board of directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 18. Use of Recreational Facilities By Nonmembers. For so long as Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article IX above, Declarant shall have the right to grant to persons who are not members of the Association the right to use the community recreational facilities constructed by Declarant. The extent and duration of nonmember use and the fee to be charged therefor shall be determined solely by Declarant. The Declarant may grant nonmember use rights to individuals as an easement appurtenant to such individuals' residential real property so that such use rights shall automatically inure to the benefit of both the original grantees and their respective successors-in-title to such real property. For so long as Declarant owns such recreational facilities, nonmember user fees shall be paid to Declarant. If such recreational facilities are conveyed to the Association, nonmember user fees due and payable after the date of such conveyance shall be paid to the Association. Declarant shall determine the amount of nonmember user fees which are due and payable after such conveyance. Such fees shall be paid in equal annual installments to the Association. The amount of such installment payments may be increased each year by the board so long as the percentage increase (as compared to the previous year's installment) does not exceed the percentage increase in the annual assessment levied against members of the Association (as compared to the previous year's assessment).

Any use right granted to nonmembers which extends beyond the termination of Declarant's option to unilaterally subject additional property to this Declaration shall be valid and may not be terminated by the Association so long as the terms and conditions imposed upon nonmember use by Declarant are complied with by the nonmember user.

Declarant hereby expressly reserves unto itself, its successors and assigns a non-exclusive, perpetual right, privilege and easement with respect to the Community for the benefit of Declarant, its successors, assigns and the above discussed nonmember users, over, under, in and or on the Community (including, without limitation, the above described recreational facilities), without obligation and without charge to the foregoing, for the purposes of taking all actions related to or connected with the granting of nonmember use and the use by such nonmembers as described above. Such right, privilege and easement shall include, without limitation, the right of access, ingress, use and egress of and to the above described recreational facilities and the right of access, ingress, use and egress for vehicular and pedestrian traffic over, under, on or in the Community roads, parking areas and walkways.

Declarant shall not be liable for and is hereby held harmless from any failure of any nonmember to pay a nonmember user fee to the Association where required to do so by this Section. In such case, the Association's sole remedy shall be to suspend the use right of the nonmember who has not timely paid until all amounts owed are paid. Declarant shall also not be liable for and is hereby held harmless from any personal injury or property damage caused by a nonmember entitled to use the Community recreational facilities constructed by Declarant.

Declarant shall have the sole right to grant use rights to the Community recreational facilities constructed by Declarant to nonmembers and the board shall have no such right. The provisions of this Section shall apply notwithstanding any contrary provisions in this Declaration, the By-Laws, Articles of Incorporation, rules and regulations, use restrictions and any amendments to any of the foregoing.

IN WITNESS WHEREOF, the Association, acting through its duly authorized officers, has caused this Declaration, to be executed and sealed as of this 15th day of June, 2001.

Signed, Sealed, and Delivered

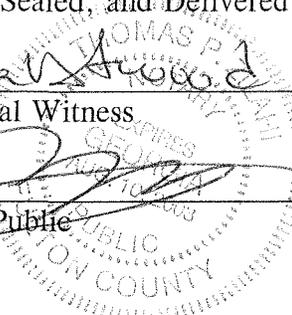
RMB INVESTMENTS, LLC



Unofficial Witness



Notary Public



BY:  (SEAL)
ITS: *operation manager.*

EXHIBIT "A"

Definitions

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

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

(b) "By-Laws" shall refer to the By-Laws of MCF Homeowners Association, Inc., attached to this Declaration as Exhibit "D" and incorporated herein by this reference.

(c) "Common Property" shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter-owned by the Association for the common use and enjoyment of the Owners.

(d) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto, and (i) such additions thereto as may be made by Declarant for its mortgagee or transferee, as provided in the Declaration) of all or any portion of the real property described in Exhibit "C", attached hereto; and (ii) such additions thereto as may be made by the Association (as provided in the Declaration) of other real property.

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

(f) "Declarant" shall mean and refer to RMB INVESTMENTS, LLC, A Georgia Limited Liability Company, and the successors-in-title and assigns of RMB INVESTMENTS, LLC. A Georgia Limited Liability Company, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "B", attached hereto or in Exhibit "C", attached hereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "B", attached hereto, and in Exhibit "C", attached hereto, which is now or hereafter subjected to this Declaration, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time.

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

(h) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site as shown on the plat for the Community, or amendments thereto, recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association.

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

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

(k) "Mortgagee" shall mean the holder of a mortgage.

(l) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

EXHIBIT "B"

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 245TH DISTRICT, G.M., JACKSON COUNTY GEORGIA, BEING ALL THE LOTS OF MEADOWCREEK FARMS SUBDIVISION, PHASE I, AS PER PLAT RECORDED IN PLAT BOOK 57, PAGES 181-183, JACKSON COUNTY, GEORGIA RECORDS, WHICH PLAT IS HEREBY INCORPORATED HEREIN AND MADE A PART HEREOF BY THIS REFERENCE.

EXHIBIT "C"

Additional Property Which Can Be Unilaterally
Submitted by Declarant

None at this time.

Exhibit "D"

BY-LAWS OF
MCF HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The Association is **MCF HOMEOWNERS ASSOCIATION, INC.** (hereinafter referred to as the "Association"). The principal office of the Association (until otherwise designated by the Board) (as hereinafter defined) shall be located at 5072 Bristol Industrial Way, Suite A, Buford, Ga. 30518, but meetings of Members and directors may be designated by the Board.

ARTICLE II
DEFINITIONS

Unless otherwise set forth herein, the terms used in these By-Laws shall have the same meaning ascribed to such terms as set forth in the Declaration of Protective Covenants dated June 15, 2001 which have been executed by RMB INVESTMENTS, LLC, A Georgia Limited Liability Company (the "Declarant") with respect to a new community known as Meadowcreek Farms Subdivision, and is to be executed by the duly authorized officers of the Association, and is to be filed for record in the Office of the Clerk of the Superior Court of Jackson County, Georgia, as such Declaration may be amended from time to time, and which Declaration is incorporated herein by reference.

ARTICLE III
MEETINGS

Section 1. Annual Meetings of Members: The regular annual meeting of the Members shall be held not later than six (6) months past the end of the fiscal year of the Association, on a date (which is not a legal holiday) and at such place within the State of Georgia, as shall be designated in the call of meetings pursuant to section 3 below. If no such date is designated, the annual meetings shall be held on the Second Tuesday in January, if not a holiday, and if it is a holiday, then the next business day following succeeding. The members shall, at such annual meeting, elect a Board of Directors for the ensuing year, in the manner provided in Article IV hereof, and shall have authority to transact any and all business which may be brought before meeting.

Section 2. Special Meeting of Members: Special meetings of Members shall be held at such place within the State of Georgia as shall be designated in the call of the meeting. Special meetings may be called by the President at any time and must be called by the President when so requested in writing by any two (2) Directors or by twenty-five (25%) of the class A membership.

Section 3. Notice of Meetings: Written notice of the place,

date and time of every annual or special meeting of Members shall be mailed to each Member, at least fifteen (15) days before such meetings. Each Member shall register his address with the Association and notices of meetings shall be mailed to him at such address, and if no such address has been registered, at his last known address of the member. If for a special meeting, such notice shall state the object or objects of the meeting. It shall not be necessary that notice of an annual meeting specify the business to be transacted at such meeting, but such notices shall specify the number of Directors to be elected at such annual meeting.

Section 4. Quorum: Unless otherwise provide in the Declaration, a quorum at any meeting of members, whether annual or special, shall consist of the presence at such meeting, in person or by proxy, of Membership entitled to cast one-third (1/3) of the votes of each Class of Membership. Unless otherwise provided in the articles of incorporation of the Association, or in the Declaration, or in these By-laws, a majority of the votes entitled to be cast by all Members present at a meeting shall be necessary and sufficient to decide and act upon any question which shall come before the meeting. No business shall be transacted at any meeting unless a quorum is present

Section 5. Voting Voting rights of Members shall be as set forth in the Declaration, Where any member is a group or entity other than one individual person, the vote on behalf of such Member shall be exercised by only such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such Member, and delivered to the Secretary of the Association.

ARTICLE IV DIRECTORS

Section 1. Number: The Affairs of the Association shall be managed by an initial Board of one (1) Director, who need not be a Member of the Association, and who shall be appointed and removed in accordance with the Declaration of Covenants. The Board shall be increased as provided in the Declaration as well. Once the control of the Association passes to the Class A Members, as provided for in the Declaration, the affairs of the Association shall be managed by a Board of not less than three (3) nor more than nine (9) Directors.

Section 2. Term of Offices: At the first annual meeting after control of the Association has passed to the Class A membership, the Board shall be increased to three (3) members in accordance with the following procedure. At that meeting, the members shall elect three (3) directors to serve a two (2) year term. All Directors shall hold office until their successors have been elected. The number of Directors may be increased by Amendment to this provision of the By-Laws.

Section 3. Compensation: No director shall receive

compensation for any service he may render to the association. However, any Director may be reimbursed for this actual expenses incurred in the performance of his duties.

Section 4. Action Taken without a Meeting: The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 5. Nomination: Nomination for elected members to the Board of Directors shall be made by a Nomination Committee. Nominations may also be made for the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 6. Election: Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy as many votes as they are entitled to exercise under the provisions of the Declaration. The Persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted

Section 7. Regular Meetings of Directors: Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should such meeting fall upon a legal holiday, then the meeting shall be held at the same time on the next day which is not a legal holiday.

Section 8. Special Meetings of Directors: Special Meetings of the Board of Directors shall be held at such place with the State of Georgia as shall be designated in the call of such meetings. Special meetings of the Board of directors may be called by the President at any time, in his discretion, and must be called by the president whenever so requested in writing by two (2) members of the board of directors.

Section 9. Notice of Meetings: Notice of special meeting of the Board of Directors shall be given by the President or the Secretary to each member of the board, not less than three (3) days before the time at which meetings are to convene. Said notices may be given by telephone, or by any other form of written or verbal communication. It shall not be necessary for notices of special meeting of the Board of Directors to state the purposes or objects of the meeting. Action may be taken by the Directors without a

meeting if such action is consented to in writing by all of the Directors.

Section 10 Quorum: A quorum at any meeting of the Board of Directors shall consist of a majority of the Members of the Board. Unless otherwise provided in the Articles of Incorporation of the Association, or in these By-Laws, or in the Declaration, a majority of those present at any meeting at which a quorum is present may decide all the questions which may come before the meeting.

Section 11. Powers: The Board of Directors shall have power to:

(a) Adopt and publish rules and regulations governing the use of the common Property and Facilities, and the personal conduct of the members and their guest thereon, and to establish penalties for the infraction thereof:

(b) Suspend the voting rights and right of use of the recreational facilities of a Member during any period on which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) Declare the office of Member of the Board of Directors to be vacant in the event such Member shall be absent for three (3) consecutive regular meetings of the Board of Directors; and

(e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to describe their duties.

Section 12. Duties: it shall be the duty of the Board of Directors:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members, or at any special meeting which such a statement is requested in writing by one-fourth (1/4th) of the class A members who are entitled to vote;

(b) Supervise all officers, agents, and employees of the Association, and see that their duties are properly performed;

(c) As more fully provided in the Declaration:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each

annual assessment period;

- (2) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (3) Foreclose the lien against any property for which assessment no paid within thirty (30) days after the due date or bring and action at law against the Owner personally obligated to pay the same;
- (d) issue, or cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
 - (e) Procure and maintain adequate insurance on property owned by the Association, as provided in the Declaration;
 - (f) cause all officers or employees having fiscal responsibility to be bonded, as required by the declaration;
 - (g) Cause the Association to carry out all of its duties and obligations under the Declaration

ARTICLE V OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officer: The officers of this Association shall be President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and as Treasurer, and such other officers as the Board may, from time to time, by resolution create.

Section 2. Election of Officers: The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members

Section 3. Term: The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall, or otherwise be disqualified to serve.

Section 4. Special Appointments: The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal: Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignations shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices: The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of Special Appointments.

Section 8. Duties: The duties of the Officers are as follows:

(a) President. The president shall be the chief executive officer of the corporation and shall have the general supervision of the business of the corporation. He shall see that all orders and resolutions of the Board of Directors are carried into effect. The president shall perform such other duties as may from time to time be delegated to him by the Board of Directors.

(b) Vice President. The vice president shall, in the absence or disability of the president, or at the direction of the president, perform the duties and exercise the powers of the president. If the corporation has more than one vice president, the one designated by the Board of Directors shall act in lieu of the president. Vice presidents shall perform whatever duties and have whatever powers the Board of Directors may from time to time assign.

(c) Secretary. The secretary shall keep accurate records of the acts and proceedings of all meetings of Owners, directors and committees of Directors; shall have authority to give all notices required by law or these Bylaws; and shall be custodian of the corporate books, records, contracts and other documents. The secretary may affix the corporate seal to any lawfully executed documents requiring it and shall sign such instruments as may require the secretary's signature and shall attest the signature of any officer or Director of the Corporation. The secretary shall perform whatever additional powers the board of Directors may from time to time assign him.

(d) Treasurer. The treasurer shall have custody of all funds and securities belonging to the corporation and shall receive, deposit or disburse the same under the direction

of the Board of Directors. The treasurer shall keep full and true accounts of all receipts and disbursements and shall make reports of the same to the Board of Directors and President upon request. The treasurer shall perform all duties as may be assigned to him from time to time by the Board of Directors.

(e) Assistant Secretary and Assistant Treasurer. The assistant secretary and assistant treasurer shall, in the absence or disability of the secretary or the treasurer, respectively, perform the duties and exercise the powers of those offices, and they shall, in general, perform such other duties as shall be assigned to them by the Board of Directors or by the person appointing them. Specifically, the assistant secretary may affix the corporate seal to all necessary documents and attest the signature of any officer of the corporation.

Section 9. Agreements, Contracts, Deeds, Leases, Etc. All agreements, contracts, deeds, leases, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE VI SEAL

Section 1. Corporate Seal: The corporate seal of the Association shall be in the following form, to wit:

and the seal in such form is hereby adopted as the Corporate Seal of the Association.

ARTICLE VII MISCELLANEOUS

Section 1. The Declaration: All provisions contained in the Declaration with regard to right, powers, and the duties of the Association, the Members thereof (including, without limitation, classes of members and qualifications and rights of the members of each class), and the Board of Directors thereof, are hereby incorporate into these By-Laws by this reference, with the same effect as if such provisions were fully set forth herein.

Section 2. Committees: The Board of Directors of the Association shall appoint Committees as specifically provided for in the Declaration and in these By-laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

Section 3. Books and Records: The books and records of the

Association shall , at all times, during reasonable business hours, be open for inspection by any member of the Association and any institutional holder, insurer or guarantor of a first mortgage.

Section 4. Indemnification: The Association shall indemnify any person made a party to any action, suit or proceeding, whether civil or criminal by reason for the fact that he, his testator or intestate, is or was a director, officer or employee of the Association against the reasonable expenses, including attorneys fees, actually or proceeding or in connection with any appeal in it. This right of indemnification shall not apply in relation to matters as to which the director, officer, or employee shall be adjudged in the action, suit or proceeding to be liable for negligence or misconduct in the performance of any duty to the Association. The right to indemnification conferred by this section shall not restrict the power of the Association to make any other indemnification permitted by Law.

Section 5. Fiscal year: The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 6. Parliamentary Rules: "Robert's Rules of Order" (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the articles of Incorporation, the Declaration, the By-laws, or a ruling made by the person presiding over the proceeding.

Section 7. Conflicts: if there are conflicts or inconsistencies between the provisions of georgia law, the Articles of Incorporation, the Declaration, the Articles of Incorporation and these By-laws, (in that order) shall prevail.

Section 8. Notices: unless otherwise specified in the Declaration or By-laws, all notices, demands, bills statements, or other communications required or permitted to be sent under the Declaration or these by-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by first class mail, postage prepaid:

(a) if to a member at the address which the member has registered in writing and filed with the Secretary, or, if no such address has been registered, at the last known address of the member; or

(b) If to the Association, the board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members.

If there are multiple Owners of a single piece of property, notice to one (1) shall be deemed to be notice to all.

Section 9. Amendment: The provisions of the Declaration

applicable to amendment of that instrument shall apply to any amendment to these By-laws.

Section 10. Fining Procedure: The Board shall not impose a fine (a late charge shall not constitute a fine) unless and until the following procedure is followed:

(a) Demand: Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

(i) the alleged violation

(ii) the action required to abate the violation; and

(III) A time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a fine, if the violation is not a continuing one. The Board or its designee may demand immediate abatement in such circumstances which in the Board's determination, pose a danger to safety or property.

(b) Notices Within twelve (12) month of such demand, if the violation continues past the period allowed in demand for abatement without penalty, or if the same rule is subsequently violated, the Board may, upon notice, impose a fine. The notice shall state:

(i) the nature of the violation;

(ii) that the alleged violator may, within ten (10) days from the date of the notice, request a hearing regarding the fine;

(III) That any statement, evidence, and witness may be produced by the alleged violation at the hearing; and

(iv) That all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of notice.

(c) Hearing: If a hearing is requested, it shall be held before the board in an executive session, and the alleged violator shall be given reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing.

IN WITNESS WHEREOF, the declarant has caused these By-Laws to be duly executed and sealed this 15th day of June, 2001.

Signed, Sealed and delivered
in the presence of:

"DECLARANT"
RMB INVESTMENTS, LLC.

WITNESS

BY: _____
ITS:

NOTARY PUBLIC