

Declaration of Protective Covenants

for

*Olde Ivy at Vinings
Commercial Condominium*

Jay C. Stephenson

Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.
* * * * *

*7/10
130*

Return to: Jonathan F. Young, Esq.
John Wieland Homes and Neighborhoods, Inc.
1950 Sullivan Road
Atlanta, GA 30337

DECLARATION OF CONDOMINIUM

FOR

OLDE IVY AT VININGS COMMERCIAL CONDOMINIUM

- TABLE OF CONTENTS -

	<u>Page</u>
INTRODUCTORY PAGE.....	1
1. NAME	1
2. DEFINITIONS.....	2
3. LOCATION, PROPERTY DESCRIPTION, SURVEY AND FLOOR PLANS.....	4
4. UNITS AND BOUNDARIES.....	4
5. COMMON ELEMENTS.....	5
6. LIMITED COMMON ELEMENTS.....	6
7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.....	7
8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.....	7
9. ASSOCIATION RIGHTS AND RESTRICTIONS.....	7
10. ASSESSMENTS.....	9
11. INSURANCE.....	12
12. REPAIR AND RECONSTRUCTION.....	15
13. ARCHITECTURAL CONTROLS.....	16
14. USE RESTRICTIONS.....	18
15. LEASING.....	24
16. SALE OF UNITS.....	25
17. RIGHT OF FIRST REFUSAL.....	25
18. MAINTENANCE RESPONSIBILITY.....	26
19. MORTGAGEE'S RIGHTS.....	28
20. GENERAL PROVISIONS.....	29
21. EMINENT DOMAIN.....	31
22. EASEMENTS.....	31
23. AMENDMENTS.....	33
24. SEVERABILITY.....	34
25. DECLARANT RIGHTS.....	34
26. PREPARER.....	34

LIST OF EXHIBITS

DESCRIPTION OF SUBMITTED PROPERTY	"A"
PERCENTAGE UNDIVIDED INTEREST IN AND TO THE COMMON ELEMENTS.....	"B"
BYLAWS	"C"

DECLARATION OF CONDOMINIUM

FOR

OLDE IVY AT VININGS COMMERCIAL CONDOMINIUM

THIS DECLARATION is made on the date set forth below by John Wieland Homes and Neighborhoods, Inc., a Georgia corporation (hereinafter referred to as "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner of the real property which is located in Cobb County, Georgia and is described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, a plat of survey related to the Condominium prepared by CASINS SURVEYING CO., dated February 23, 2001, and ~~last amended on~~ _____, was filed in Condominium Plat Book 6, Page(s) 75, Cobb County, Georgia Records; and

WHEREAS, floor plans relating to the Condominium prepared by CHARMANCOYNE CHAPMAN & ASSOCIATES, were filed in Floor Plan Condominium Book 100, Page(s) 132-134, of the Cobb County, Georgia Records; and

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto, including the improvements thereof, to the provisions of this Declaration and to the Georgia Condominium Act;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements located thereon, is hereby submitted and made subject to the form of ownership set forth in the Georgia Condominium Act, and is hereby subjected to the provisions of this Declaration. By virtue of the recording of this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to provisions of the Georgia Condominium Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors-in-title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

1. NAME.

The name of the condominium is Olde Ivy at Vinings Commercial Condominium (hereinafter sometimes called the "Condominium," as further defined herein), which condominium is an office condominium which hereby submits to the Georgia Condominium Act, O.C.G.A. Section 44-3-70, et seq. (Michie 1982).

2. DEFINITIONS.

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

(a) Act means the Georgia Condominium Act, O.C.G.A. Section 44-3-70, et seq. (Michie 1982), as may be amended.

(b) Architectural Control Committee or ACC means the committee established to exercise the architectural review powers set forth in Section 13.

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

(d) Articles or Articles of Incorporation mean the Articles of Incorporation of Olde Ivy at Vinings Commercial Condominium Association, Inc., which have been filed with the Secretary of State of the State of Georgia.

(e) Association means Olde Ivy at Vinings Commercial Condominium Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

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

(g) Bylaws means the Bylaws of Olde Ivy at Vinings Commercial Condominium Association, Inc., attached hereto as Exhibit "C" and incorporated herein by this reference.

(h) Common Elements mean those portions of the property subject to this Declaration which are not included within the boundaries of a Unit, as more particularly described herein.

(i) Common Expenses mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Condominium, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements and Area of Common Responsibility and as may be required under the Reciprocal Easement Agreement.

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

(k) Condominium means all that property described in Exhibit "A," attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration.

(l) Condominium Instruments mean this Declaration and all exhibits hereto, including the Bylaws, and Survey and Floor Plans, all as may be supplemented or amended.

(m) Convertible Space means a portion of a structure within the Condominium, which portion may be converted in accordance with this Declaration and the Act into one or more Units and/or Common Elements, including, but not limited to, Limited Common Elements.

(n) Declarant shall mean and refer to John Wieland Homes and Neighborhoods, Inc., a Georgia corporation, and its successors-in-title and assigns, provided that, in an instrument of conveyance to or any other document involving any such successor-in-title or assign, such successor-in-title or assign is designated as "Declarant" hereunder by the grantor/maker of such conveyance or document, which grantor/maker shall be "Declarant" hereunder at the time of such conveyance or execution of such document; 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 the Condominium, there shall be only one Person entitled to exercise the rights and powers of "Declarant" hereunder at any one point in time. An "affiliate" of Declarant John Wieland Homes and Neighborhoods, Inc. shall mean any entity in which John Wieland Homes and Neighborhoods, Inc. or John Wieland (and/or member(s) of his immediate family) own or control at least twenty (20%) percent of the beneficial interest thereof.

(o) Floor Plans means any and all floor plans for Olde Ivy at Vinings Commercial Condominium filed in the Floor Plan Condominium Book of the Cobb County, Georgia records.

(p) Limited Common Elements mean a portion of the Common Elements reserved for the exclusive use of those entitled to occupy one (1) or more, but less than all, Units, as more particularly set forth herein.

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

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

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

(t) Occupant means any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

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

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

(w) Reciprocal Easement Agreement shall mean that certain Reciprocal Declaration of Easement Agreement for the Olde Ivy at Vinings Condominiums, recorded or to be recorded in the Cobb County, Georgia land records.

(x) Survey means any and all plats of survey for Olde Ivy at Vinings Commercial Condominium filed in the Condominium Plat Book of the Cobb County, Georgia records.

(y) Unit means that portion of the Condominium intended for individual ownership and use, as more particularly described herein and shall include the undivided ownership in the Common Elements assigned to the Unit hereunder.

3. LOCATION, PROPERTY DESCRIPTION, SURVEY AND FLOOR PLANS.

The Condominium subject to this Declaration and the Act is more particularly described in Exhibit "A" hereto and incorporated herein by this reference. Survey and Floor Plans relating to the Condominium will be filed in the Cobb County, Georgia land records at the time the Condominium is submitted to this Declaration. Survey and Floor Plans are incorporated herein by reference as fully as if the same were set forth in their entirety herein. So long as Declarant owns at least one (1) Unit, Declarant reserves the right, but shall have no obligation, to make improvements and changes to all or part of the Common Elements and the Units owned by Declarant or its affiliates (other than changes to the location of Unit boundaries unless expressly permitted herein), including, without limitation, addition and realignment of parking spaces, renovation and installation of changes to utility systems and facilities, rearrangement and installation of security and refuse facilities, work relating to building exteriors, drives, and utility lines and pipes located on the Condominium.

4. UNITS AND BOUNDARIES.

The Condominium will be initially divided into ten (10) separate Units, the Limited Common Elements, the Common Elements, and the Convertible Space, as shown on Survey and/or Floor Plans, which Convertible Space may be converted into one or more Units and/or Common Elements, including, without limitation, Limited Common Elements. Each Unit and the Convertible Space consist of commercial office space or other commercial areas and its appurtenant percentage of undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Instruments. The Units and Convertible Space are depicted on Survey and Floor Plans. Each Unit includes that part of the structure which lies within the boundaries described in subsections (a) and (b) below.

(a) Vertical Boundaries. The perimetrical or vertical boundaries of each Unit shall be the vertical plane of the unfinished surfaces of the interior walls of the Unit. The vertical boundaries include the sheet rock on the Unit side of the walls, and they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit.

(b) Horizontal Boundaries. The upper horizontal boundary of each Unit shall be the exterior, unfinished surface of the wallboard or other material comprising the ceiling of the office or commercial space constructed for the Unit (with such material constituting part of the Unit). The

Ownership of the Common Elements shall be by the Owners as tenants-in-common. The percentage of undivided interest in and to the Common Elements attributable to each Unit is set forth in Exhibit "B" attached hereto. Such percentages are based on the relationship of the approximate square footage of each Unit to the approximate total square footage of all Units. Such percentages may be altered only by an amendment hereto with the consent of all Owners and Mortgagees, except as provided in Section 14(b)(iii), or such lesser number as may be prescribed by the Act, expressed in a duly recorded amendment to this Declaration.

The Common Elements shall remain undivided, and no Owner or any other Person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

6. LIMITED COMMON ELEMENTS.

(a) General. The Limited Common Elements located on the Condominium and the Units to which they are assigned are:

(i) any portion of any heating and/or air conditioning system or other utility system (including the duct work from such system) which serves more than one Unit, but less than all Units, is assigned as a Limited Common Element to the Units so served;

(ii) the portion of the Common Elements on which there is located any portion of the heating and/or air conditioning system (including the duct work from such system) serving a single Unit is assigned as Limited Common Element to the Unit so served;

(iii) any utility meter which serves only one Unit is assigned as a Limited Common Element to the Unit so served; and

(iv) any utility meter and/or utility meter area serving more than one Unit, but less than all Units, is assigned as Limited Common Elements to the Units so served.

(b) Assignment and Reassignment. The Board, without need for a membership vote, is hereby authorized to assign and reassign Limited Common Elements and to assign Common Elements, not previously assigned, as Limited Common Elements, provided that any such assignment or reassignment shall be made in accordance with the provisions of O.C.G.A. Sections 44-3-82(b) and (c), as modified and supplemented herein. A Common Element not previously assigned as a Limited Common Element may be so assigned by the Board, and a Limited Common Element may be reassigned by the Board, without need for a membership vote, upon written application to the Board by the Owner or Owners requesting the exclusive use of such Common Element, or in the case of a reassignment of a Limited Common Element, upon written application to the Board by the Owner(s) of the Unit(s) to which the Limited Common Element appertains and the Owner(s) of the Unit(s) to which the Limited Common Element is to be reassigned. The Board has the right and authority to approve or disapprove any such application. Upon Board approval of the application, an amendment to the Declaration assigning the Common Element as a Limited Common Element or reassigning the Limited Common Element shall be prepared and executed on

behalf of the Association, without need for a membership vote, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in O.C.G.A. Section 44-3-82. Assignments and reassignments of Limited Common Elements and assignments of Common Elements other than as provided in this subsection are prohibited.

7. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES.

All Owners, by virtue of their ownership of a fee or undivided fee interest in any Unit, excluding Persons holding such interest under a Mortgage, are members of the Association, and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which Association members are entitled to vote pursuant to the Condominium Instruments. Subject to the provisions of the Condominium Instruments, each Owner shall be entitled to one (1) vote for each Unit in which such Owner holds the interest required for membership, which shall be appurtenant to such Unit and shall be weighted in accordance with the percentage of undivided interest in the Common Elements attributable to the Unit as set forth in Exhibit "B" hereto.

8. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

Except as otherwise provided herein, each Unit is hereby allocated liability for Common Expenses apportioned in accordance with the percentage of undivided interest in the Common Elements appurtenant to the Unit, as shown on Exhibit "B."

(a) Common Expenses. Except as provided below or elsewhere in the Act or Condominium Instruments, the amount of all Common Expenses shall be assessed against all the Units in accordance with the above allocation of liability for Common Expenses.

(b) Special Assessment. The Board shall have the power to assess specially pursuant to this subsection and to O.C.G.A. Section 44-3-80(b) as, in its discretion, it shall deem appropriate. Failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

(i) Any Common Expenses benefiting less than all of the Units or significantly disproportionately benefiting all Units may be specially assessed equitably among all of the Units which are benefited according to the benefit received.

(ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Units, or by the Occupant(s), licensees or invitees of any such Unit(s) may be specially assessed against such Unit(s).

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

9. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

- (a) in accordance with O.C.G.A. Section 44-3-105, and as otherwise provided herein, to enter any portion of the Condominium for maintenance, emergency or safety purposes, or otherwise to discharge its powers or responsibilities hereunder, which right may be exercised by the Association's Board, officers, agents, employees or managers; except in an emergency situation, entry into Units shall be only during reasonable hours and after reasonable notice to the Owner or Occupant; for purposes hereof, an emergency justifying immediate entry into a Unit shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation, or sounds indicating that an individual or animal might be injured or sick and require immediate medical attention; no one exercising the rights granted in this subsection shall be liable for trespass, damages or in any other manner by virtue of exercising such rights; the failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability for any of the above-referenced parties, it being deemed and agreed that no duty to enter a Unit shall exist;
- (b) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements;
- (c) to enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in O.C.G.A. Section 44-3-76, as amended (which shall not be construed as limiting any other legal means of enforcement);
- (d) to grant permits, licenses, utility easements and other easements over and through the Common Elements;
- (e) to control, manage, operate, maintain, improve and replace all portions of the Area of Common Responsibility;
- (f) to deal with the Condominium in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Act and this Declaration;
- (g) to represent the Owners in dealing with governmental entities with respect to the Area of Common Responsibility;
- (h) to require each Owner to install separate utility meters for each Owner's Unit at the Owner's cost, or to install such meters and assess the costs thereof against each Unit as provided herein;
- (i) to acquire, hold, and dispose of tangible and intangible personal property and real property;

such unauthorized use shall be considered a theft of services under O.C.G.A. Section 16-8-6. The utility services shall not be required to be restored until all judgments are paid in full, at which time the Association shall direct the utility provider to restore the service. Enforcement under this subsection is not dependent upon or related to other restrictions and/or other actions, except as provided in this subsection.

(d) Computation of Operating Budget and Assessment. The Board shall prepare a budget covering the estimated costs of operating the Condominium during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and notice of the assessments to be levied against each Unit for the year (or portion thereof in the case of the initial budget) to be delivered to each member at least thirty (30) days prior to the due date for payment of the assessment (or the first installment thereof).

The budget and the assessment shall become effective unless disapproved at a duly called and constituted Association meeting by a vote of a Majority of the total Association vote. If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year.

(e) Special Assessments. In addition to the annual assessment provided for in Section 10(b), the Board may at any time levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed two hundred dollars (\$200.00) per Unit shall be subject to approval by a Majority of the total Association vote prior to becoming effective (except as provided in Section 8(b) regarding the power to assess specially pursuant to O.C.G.A. Section 44-3-80(b) and Section 12(b) regarding repair or reconstruction of casualty damage to or destruction of all or part of the Condominium).

(f) Capital Budget and Contribution. The Board may prepare an annual capital budget or evaluation which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board may set the required capital contribution, if any, in an amount sufficient to permit meeting the Association's projected capital needs both as to amount and timing by annual assessments over the period of the budget. Any required capital contribution shall be included within the budget and assessment as provided in Section 10(d). The Board shall at all times have the exclusive right to make expenditures from the Association capital reserve account to pay for emergency or unanticipated expenses incurred by the Association or to cure a financial shortfall resulting from inaccurate expense allocation. Such expenditures from the Association capital reserve account shall be made in the Board's sole discretion, and shall not require the approval of the Owners.

(g) Statement of Account. Any Owner, Mortgagee, Person having executed a contract for the purchase of a Unit, or lender considering a loan to be secured by a Unit shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges interest, fines, or other charges, against a Unit. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding

ten dollars (\$10.00) or such higher amount authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

(h) Surplus Funds and Common Profits. Pursuant to O.C.G.A. Section 44-3-108, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining thereafter shall, at the Board's option, either be distributed to the Owners or credited to the Owners' next chargeable assessment in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's reserve account.

11. INSURANCE.

The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by O.C.G.A. Section 44-3-107, as amended, and as required herein.

All insurance purchased by the Association pursuant to this Section shall run to the benefit of the Association, the Board, officers, all agents and employees of the Association, the Owners, and their respective Mortgagees, and all other Persons entitled to occupy any Unit, as their interests may appear. The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property. The Association's insurance shall not include the Owners' personal property unless the Association advises the Owners of such coverage in writing.

The Board shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs, and each Owner shall have the right to obtain additional coverage at such Owner's own expense.

All Association insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees, if any. At least every two (2) years the Board shall conduct an insurance review to verify that the policies in force are adequate to meet the Association's needs and to satisfy O.C.G.A. Section 44-3-107. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to so verify.

(a) General. The Board shall utilize reasonable efforts to secure a blanket hazard insurance policy providing "all risk" coverage in an amount equal to full replacement cost, before application of deductibles, of all improvements located on the Condominium. If "all risk" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Board shall use reasonable efforts to obtain policies that will provide the following:

(i) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, Occupants, and their respective agents and employees;

(iii) fidelity bonds or dishonesty insurance, if reasonably available, covering officers, directors, employees, and other Persons who handle or are responsible for handling Association funds. Such bonds, if obtained, shall be of an amount in the business judgment of the Board, but in no event less than three (3) month's assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; and

(iv) such other insurance as the Board may determine to be necessary.

(f) Exclusions. Insurance carried by the Association as a Common Expense shall not be required to include any part of a Unit which is not depicted on the original Survey or Floor Plans or included in the original mortgage, nor shall the Association include public liability insurance for individual Owners for liability arising within the Unit.

(g) No Priority for Disbursement. Nothing contained herein gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

(h) Owner Insurance. Every Owner shall be obligated to obtain and maintain at all times insurance covering those portions of such Owner's Unit to the extent not insured by policies maintained by the Association. Upon request by the Board, the Owner shall furnish a copy of such insurance policy or policies to the Association. In the event that any Owner fails to obtain insurance as required hereunder, the Association may purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner and such Owner's Unit, to be collected in the manner provided for collection of assessments under Section 10.

(i) Insurance Deductibles. In the event of an insured loss, any required deductible shall be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Person's portion of the total cost of repair or otherwise as the Board determines to be equitable. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner shall be responsible for paying any deductible pertaining to such Owner's Unit. If any Owner fails to pay the deductible when required hereunder, then the Association may pay the deductible and assess the cost to the Owner and such Owner's Unit pursuant to Section 8; provided, however, where the deductible is for insurance required under the Act, no Owner shall be assigned more than one thousand dollars (\$1,000.00), or such higher amount as authorized by the Act, as the cost of the deductible for any one occurrence.

(j) Payment of Claims to Delinquent Owners. Notwithstanding anything to the contrary herein, in the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in any payment owed to the Association, including, without limitation, any assessment under Section 10, the Association may retain and apply such proceeds to the

of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair as set forth in this Section, to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board.

13. ARCHITECTURAL CONTROLS.

(a) Architectural Standards. Except as provided herein, no Owner, Occupant, or any other Person may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior or interior change, alteration, or construction in or to a Unit (including, without limitation, painting, utility work and/or alteration, installation of alarms and/or alarm systems, and landscaping), nor erect, place or post any object, sign, antenna, light, storm door or window, door knob or knocker, artificial vegetation, exterior sculpture, fountains, flags, or thing on the exterior of the buildings (except for reasonable seasonal decorations displayed in only windows between Thanksgiving and January 15), in any windows, on any Limited Common Elements or on any other Common Elements, without first obtaining the written approval of the Architectural Control Committee (ACC). The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Units and structures, and the location in relation to surrounding structures and topography. Notwithstanding the above, Declarant and its affiliates shall not be required to obtain any approvals under this Section.

Applications for approval of any such construction or modification shall be in writing and shall provide such information as the ACC may reasonably require. The ACC or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or the ACC may publish written architectural standards, and any request in substantial compliance therewith shall be approved; provided, however, each such request shall be in harmony with the external and internal design of the existing buildings and Units and the location in relation to surrounding structures and topography of the vicinity. The ACC or the Board may allow such encroachments on the Common Elements and Limited Common Elements as it deems acceptable.

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

(b) Architectural Control Committee. The ACC shall constitute a standing committee of the Association and shall consist of the Board unless the Board delegates to other Owners the authority to serve on the ACC. The chairperson of the ACC shall be a Board member.

(c) Condition of Approval. As a condition of approval for requested construction,

change, addition, or alteration, an Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such construction, change, modification, addition, or alteration. In the Board's or ACC's discretion, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner. The Board or ACC also may establish such other conditions of approval as it determines necessary or appropriate, including reasonable construction commencement and completion times.

(d) Limitation of Liability. Review and approval of any application hereunder may be made on any basis, including solely the basis of aesthetic considerations only. The Board, the ACC, their respective members, and the Association, the Declarant and its affiliates, and their respective officers, directors, employees and agents, shall not bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes, zoning regulations and other governmental requirements. The Board, the ACC, their respective members, and the Association, the Declarant and its affiliates, and their respective officers, directors, employees and agents, shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

(e) No Waiver of Future Approvals. Each Owner acknowledges that the Board and ACC members will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Board or ACC approval hereunder shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(f) Enforcement. Any construction, alteration, or other work done in violation of this Section shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to do so, the Board or its designees shall have the right to enter the property and do so. All costs thereof, including reasonable attorney's fees, shall be an assessment and lien against such Unit, collectable in the manner provided under Section 10 for the collection of assessments.

In addition, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Section and its or the ACC's decisions. Furthermore, the Board shall have the authority to record, in the land records of the county in which the Condominium is located, notices of violation of the provisions of this Section.

If any Owner or Occupant makes any change, alteration, or construction (including landscaping) upon the Common Elements in violation hereof, such Owner or Occupant does so at such Owner's or Occupant's sole risk and expense, and subject to possible removal by the Board at any time. However, the Board may require that the change, alteration or construction remain on the Common Elements without reimbursement to the Owner or Occupant for any expense such Owner or Occupant may have incurred in making the change, alteration or

(a) The Owner desiring to make such subdivision shall make written application to the Board requesting an amendment to this Declaration (including Survey and Floor Plans), which application shall (i) contain a survey and floor plans of the proposed alterations of the affected Unit or Units and the affected Common Elements, assigning identifying numbers to any Unit created by subdivision; (ii) set forth the proposed reallocation (among the new Units to be created by any proposed subdivision or transfer) of the percentage of interest in the Common Elements appurtenant to the affected Unit or Units; and (iii) set forth whether the Limited Common Elements serving the affected Unit or Units are to be assigned to each new Unit or to fewer than all of the new Units to be created by the proposed subdivision or transfer.

(b) No proposed subdivision of a Unit or Units shall be effective unless first approved in writing by a Majority of the Board, by all holders of the Mortgages on the affected Unit or Units, and, for so long as Declarant owns at least one (1) Unit, by the Declarant. If so approved by the Declarant, Board and such Mortgagees, such proposed subdivision shall be effective upon the preparation by the Association of, and the recording of, an amendment to this Declaration, consistent with and reflecting such subdivision, executed by the Association (by and through the Board), the Declarant, the Owner or Owners of the Units involved therein and all holders of Mortgages on such Units, together with amended Survey and Floor Plans as necessary, approved in accordance with the Act. Any expenses incurred in connection with the accomplishing of any subdivision of Units as provided hereunder, including, without limitation, attorneys' fees, shall be paid by the Owner(s) of the Units involved prior to the Association's execution of the amendment, and such Owner(s) shall be jointly and severally liable for the payment thereof. Notwithstanding anything to the contrary contained herein, the Declarant shall have the right to subdivide a Unit or Units owned by the Declarant or its affiliates without the approval of the Association, the Board, the ACC or any other Person or group, and the Board shall take such steps as may be necessary to have the required amendment(s) to the Declaration executed on behalf of itself and the Association, if and as necessary.

(c) Outbuildings. No structure of a temporary character, such as, without limitation, tents, shacks, carports, garage, barn or other outbuilding, shall be erected on any portion of the Condominium, at any time, other than by Declarant or its affiliates.

(d) Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Elements, without prior written Board consent, except for activities of Declarant or its affiliates while Declarant owns at least one (1) Unit or as otherwise specifically provided herein.

(e) Use of Limited Common Elements. Use of the Limited Common Elements is restricted exclusively to the Owner(s) of the Unit(s) to which such Limited Common Elements are assigned, and said Owner's employees, guests, tenants and invitees. The Limited Common Elements are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Elements in general, and the restrictions applicable to the Common Elements in Section 14(d) shall also apply to the Limited Common Elements.

(f) Prohibition of Damage, Nuisance and Noise. Without prior written Board consent, nothing shall be done or kept on the Condominium which would increase the rate of

not be sufficient to establish compliance with this restriction). Boats, trailers, and recreational vehicles (RV's and motor homes) are prohibited from being parked on the Condominium.

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

If a vehicle is parked in a fire lane, is blocking another vehicle or access to a Unit, is obstructing the flow of traffic, is parked on any grassy area, is parked in a space which has been assigned as exclusively serving another Unit, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this subsection, the Declarant, its affiliates, and the Association, and any director, officer, employee or agent of any of the foregoing, shall not be liable to any Person for any claim of damage as a result of the towing activity. The Association's right to tow is in addition to, and not in limitation of, all other rights of the Association, including the right to assess fines. The Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(j) Abandoned Personal Property. Personal property, other than vehicles as provided for in Section 14(i), is prohibited from being stored, kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Elements, without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine. The notice shall include the name and telephone number of the Person which will remove the property and the name and telephone number of an individual to contact regarding the alleged violation.

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

The Declarant, its affiliates, and the Association, and any director, officer, employee or agent of any of the foregoing, shall not be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(k) Heating of Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to the Condominium, increased Common

Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. Owners and Occupants shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. If during the months specified above the heating equipment is not working properly, the Owner or Occupant shall immediately inform the Board of this failure of the equipment and of the time needed to repair the equipment. The Board may fine any Owner or Occupant and/or cause the water service to the violator's Unit to be discontinued for violation hereof, in addition to any other remedies of the Association.

(l) Signs. Except as may be required by legal proceedings and except for signs which may be erected by Declarant and its affiliates in their sole discretion, no signs, advertising posters, or billboards of any kind shall be erected, placed, or permitted to remain on the Condominium without the prior written consent of the Board or its designee. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

(m) Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for transmission or reception of television, radio, satellite or other signals shall be placed, allowed, or maintained on any portion of the Condominium except with the prior written permission of the Board or its designee.

(n) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from Units and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Elements or Limited Common Elements outside Units, temporarily or otherwise, except in trash dumpsters. Rubbish, trash and garbage shall be disposed of in sealed plastic bags and either placed in the trash dumpsters or proper trash receptacles designated by the Board for collection or removal from the Condominium.

(o) Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken on any part of the Condominium.

(p) Declarant Right. Notwithstanding any provisions contained in this Declaration to the contrary, for so long as Declarant owns at least one (1) Unit, it shall be expressly permissible for Declarant and its affiliates, contractors, agents, employees, assigns and representatives to maintain and carry on, upon such portion of the Condominium as Declarant may deem necessary, such facilities and activities as in the Declarant's sole opinion may be reasonably required, convenient or incidental to the repair (if any) and sale of the Units, including, but without limitation, business offices, signs, model units, construction trailers and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities in the Condominium for such purposes and to use the Units owned by Declarant and its affiliates as model units and as offices for the sale of the Units and related activities.

15. LEASING.

(a) General. Subject to Section 17, Units may be leased for uses consistent with this Declaration. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. There shall be no subleasing of Units or assignment of leases without prior written Board approval. Within three (3) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the Association's rules and regulations.

(b) Compliance With Declaration, Bylaws, and Rules and Regulations, Use of Common Elements, and Liability for Assessments. Each Owner and each lessee, by occupancy of a Unit, covenant and agree that any lease for a Unit shall contain the following language and agree that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Unit:

(i) Compliance With Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and Association rules and regulations adopted pursuant thereto, and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure such compliance. The Owner (lessor) shall cause all Occupants of such Owner's (lessor's) Unit to comply with the Declaration, Bylaws, and Association rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any such violation. If the lessee, or lessee's employee, violates the Declaration, Bylaws, or an Association rule or regulation for which a fine is imposed, notice of the violation shall be given to the lessor and the lessee, and such fine may be assessed against the lessee in accordance with Article V, Section 2 of the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the lessor shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

Any violation of the Declaration, Bylaws, or Association rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the lessor to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The lessor hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and Association rules and regulations adopted pursuant thereto, including, without limitation, the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the lessor, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the Unit.

(ii) Use of Common Elements. The lessor transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the lessor has to use the Common Elements.

(iii) Liability for Assessments. If lessor fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then lessor hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply herewith, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were the owner of the Unit. The above provision shall not be construed to release the lessor from any obligation, including the obligation for assessments, for which the lessor would otherwise be responsible.

(c) Applicability. Notwithstanding the above, this Section shall not apply to any leasing transaction entered into by the Declarant, the Association, or the Holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

16. SALE OF UNITS.

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

17. RIGHT OF FIRST REFUSAL.

In order to assure a commonality of congenial Owners and thus protect the value of the Units, the sale or leasing of a Unit by any Owner other than the Declarant or its affiliates shall be subject to the following provisions:

(a) Notice to Association. An Owner intending to sell or lease such Owner's Unit shall give notice in writing to the Board of such intention, stating the name and address of the intended purchaser or lessee, the terms of the proposed transaction (including a copy of the proposed sale, assignment or lease agreement), financial and character references of the proposed purchaser, assignee or lessee and such other information as the Board may reasonably require (hereinafter referred to as the "Owner's Notice).

(b) Alternatives of Association. Within ten (10) days after receipt of the Owner's Notice, the Board shall notify such Owner in writing (hereinafter referred to as the "Board's Notice) that: (i) the transaction is approved; or (ii) the Association, through the Board, will furnish a purchaser or lessee who will purchase or lease the Unit upon terms as favorable to the Owner as the terms stated in the Owner's Notice, except that the Board's purchaser or lessee shall have forty-five (45) days subsequent to the date of the Board's Notice in which to close the

transaction or commence the lease. Should the Board of Directors fail to respond to the Owner's Notice within such ten (10) day period, the transaction shall be deemed approved; provided, however, if such transaction is not consummated in substantial accordance with the terms stated in the Owner's Notice within ninety (90) days after the date of the Owner's Notice, Owner shall comply again with the requirements of this Section for any later sale or lease. Upon the request of any Owner or Person who has executed a contract for the purchase of a Unit or lease for rental of a Unit, a recordable statement certifying to any waiver of or failure or refusal to exercise such rights and restraints whenever such waiver, failure or refusal has occurred shall be furnished by the Association within ten (10) days after receipt of such request by the Association. Payment of a fee not exceeding twenty five dollars (\$25.00) may be required by the Board of Directors as a prerequisite to the issuance of such a statement.

(c) No Waiver. Approval by the Board of Directors of any sale or lease shall not constitute a waiver of the right of approval of any other conveyance or lease or to any assignment or subletting of any previously approved leasing. The approval by the Board shall be in recordable form and shall be delivered to the purchaser or lessee who may, at such Person's sole cost and discretion, record same.

(d) Exception to Board's Right and Options. The rights and options provided for in this Section shall not apply to any sales, assignments, leases or subleases (i) of a Unit or interest therein by Declarant or its affiliates, (ii) between co-owners of the same Unit, (iii) to the spouse and/or to any descendants of the Owner, (iv) to any trustee of a trust, the sole beneficiaries of which are the Owner, the spouse and/or the descendants of the Owner, (v) by any Owner to the Association, or (vi) by the Association.

18. MAINTENANCE RESPONSIBILITY.

(a) By the Owner. Except to the extent otherwise provided in Section 18(b), each Owner shall have the obligation to maintain and keep in good repair all portions of such Owner's Unit and all Limited Common Elements, including, without limitation, heating and air conditioning equipment and meters, assigned as Limited Common Elements to the Unit. This maintenance responsibility shall include, but not be limited to, the following: all glass surfaces, windows, window frames and casings and locks (including caulking of windows), all doors, doorways, door frames, and hardware that are part of the entry system of the Unit; the air conditioning compressor serving the Unit; and all pipes, lines, ducts, conduits, or other apparatus which serve only the Unit, whether located within or without a Unit's boundaries (including all gas, electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Unit).

In addition, each Owner shall have the responsibility:

(i) to keep in a neat, clean and sanitary condition any Limited Common Elements serving such Owner's Unit;

(ii) to perform such Owner's responsibility in such manner so as not to unreasonably disturb other persons in other Units; and

(iii) to promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible.

(b) By the Association. The Association shall maintain and keep in good repair as a Common Expense the "Area of Common Responsibility," which includes all Common Elements. The Area of Common Responsibility shall include, but not be limited to, the following: exterior facade and surfaces of Units, entrance sign, sprinkler systems, paving; painting of the exterior side of the doors which comprise a boundary to a Unit and painting of exterior trim; and paved parking areas, walkways, breezeways, ramps and sidewalks. Except to the extent that insurance required to be maintained or maintained by the Association covers any damage or loss and except as otherwise provided herein, the Association shall not be responsible for any maintenance or repair to any Unit.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to, landscaping of Common Elements) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property caused by or resulting from the elements, the Owner of any Unit, any other Person, any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements, or any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to any Owner, or any Owner's Occupants, guests or employees, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Elements. The Association shall not be liable to any Owner, or any Owner's Occupants, guests or employees, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or any inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association.

In performing its responsibilities hereunder, the Association shall have the authority to delegate to such Persons, firms or corporations of its choice such duties as are approved by the Board.

(c) Failure to Maintain. If the Board determines that any Owner has failed or refused to discharge properly such Owner's obligation with regard to the maintenance, repair, or replacement of items of which such Owner is responsible hereunder, then the Association shall

give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists, the Owner shall have ten (10) days from the date of the notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within such ten (10) day period and diligently pursue completion of such replacement or repair. If the Board determines that an emergency exists or that an Owner has not complied with the demand given by the Association as herein provided, then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

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

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

19. MORTGAGEE'S RIGHTS.

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

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

(c) Sale and Lease. Notwithstanding anything to the contrary herein contained, the

III, Section 2 of the Bylaws, the Board may negotiate the resolution of any alleged defect(s) in the Common Elements and Area of Common Responsibility on behalf of the Owners and shall have the right and authority to settle and release on behalf of any and all of the Owners claims, causes of action, damages and suits involving the same. Any such settlement and release shall bind all Owners and their successors and assigns. This subsection may not be amended without the written consent of the Declarant.

(d) Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the total Association vote. This subsection shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) the imposition and collection of assessments as provided in Section 10, (iii) proceedings involving challenges to ad valorem taxation, or (iv) counterclaims brought by the Association in proceedings instituted against it. This subsection shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above and such amendment is consented to in writing by the Declarant.

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

(f) Parking Areas. The Declarant, its affiliates, and the Association, and any director, officer, employee or agent of any of the foregoing, shall not be liable for loss or damage to any property, including, without limitation, vehicles, placed or kept in any parking space or area in the Condominium. All Owners, Occupants and other Persons who use a parking space or area in the Condominium do so at their own risk.

(g) Disclosures. Every Owner, by acceptance of a deed to a Unit, acknowledges that, in addition to being subject to and bound by the Condominium Instruments, such Owner and such Owner's Unit are or will be bound by and subject to the Reciprocal Easement Agreement, which may be recorded subsequent to such Owner's acquisition of title to the Unit, but to which such Owner and such Owner's Unit will be bound by and subject to nonetheless. Each Owner further acknowledges that the buildings in which the Unit(s) are located also contain residential units, which are or will be subject to a residential condominium regime, are or will be located on the floor(s) above the Units of the Condominium, and are not subject to the terms of this Declaration. In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws, or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it, and shall be subject to all of the obligations imposed upon it, pursuant to the Reciprocal Easement Agreement, subject to all superior rights and powers which have been conferred pursuant to the Reciprocal Easement Agreement. The Association shall take no action in derogation of the rights of or contrary to the interest of the Reciprocal Easement Agreement.

Each Owner and Occupant also acknowledge the following:

egress to and from such Owner's or Occupant's Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration, including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein and/or in the Bylaws. Every portion of a Unit and all Limited Common Elements contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit. All portions of the Condominium also shall be subject to easements of encroachment as provided in the Act.

The Owners and Occupants of Units C-109 and C-110 (as shown on the Floor Plans) shall have access through the Convertible Space (C-111) (as shown on the Floor Plans) for the purpose of accessing the utility meter area/room adjacent thereto (as shown on the Floor Plans). Such access may be used only upon prior notice to, and prior approval of, the Owner of the Convertible Space; such approval may not be unreasonably withheld or delayed, but such approval may be subject to reasonable conditions imposed by such Owner (which may not include, however, the charging of any fee). Access shall be exercised with a minimum of interference to the quiet enjoyment of the Convertible Space, and reasonable steps shall be taken by the Person exercising the access to protect said area and its contents. The Person exercising access shall be liable at its sole expense for the prompt repair of any damage to the Convertible Space which is caused by, or the result of, the exercise of such access. The damaged portions shall be restored to substantially the same condition as existed prior to the damage.

(b) Declarant Easements. So long as Declarant owns at least one (1) Unit, Declarant and its affiliates, contractors, representatives, agents, assigns and employees shall have (i) an easement for the construction, installation, maintenance and use of signs, sales offices, business offices, construction trailers, promotional facilities and model units on the Condominium, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development or sale of the Condominium and/or the Units therein, and (ii) a transferable easement on, over, through, under and across the Common Elements for the purpose of making improvements on the Condominium or any portion thereof, for the purpose of installing, replacing, repairing and maintaining all utilities serving the Condominium, and for the purpose of doing all things reasonably necessary and proper in connection therewith.

(c) Utilities. To the extent that a sprinkler system, if any, or any utility line, pipe, wire or conduit serving any Unit, Units or the Common Elements shall lie wholly or partially within the boundaries of another Unit or the Common Elements, such other Unit, Units or the Common Elements shall be burdened with a non-exclusive easement for access to and use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Unit, Units or Common Elements served by the same and the Association. Maintenance, replacement and repair of any such sprinkler system, utility line, pipe, line, conduit, duct or wire shall be as otherwise set forth in this Declaration. In such circumstance, the Person for whose benefit such work is being done shall be responsible for repair of all incidental damage to any Unit resulting from performance of any such work. All Owners hereby covenant and agree that as finish levels can have varying degrees,

IN WITNESS WHEREOF, the undersigned duly authorized officer of Declarant has executed this Declaration this 3rd day of April, 2001.

Signed, sealed and delivered in the presence of:

Andrea Lannarelli
Witness

[Signature]
Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]



DECLARANT:

JOHN WIELAND HOMES AND NEIGHBORHOODS, INC., a Georgia corporation

By: [Signature]
Richard A. Bacon
Executive Vice President

[CORPORATE SEAL]



The Association has executed this instrument and affixed the seal below this 3rd day of April, 2001 for the purpose of consenting to all of the terms and provisions of this Declaration.

Signed, sealed and delivered in the presence of:

Andrea Lannarelli
Witness

[Signature]
Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]



OLDE IVY AT VININGS COMMERCIAL CONDOMINIUM ASSOCIATION, INC., a Georgia nonprofit corporation

By: [Signature]
Dan Fields
Vice President

[CORPORATE SEAL]



EXHIBIT "A"

Description of Submitted Property

BUILDING #1

All of the air space below the horizontal plane at an elevation of 903.0 feet above the N.G.V.D. of 1929 Mean Sea Level (being the top of the concrete slab between the lowermost floor of the building and the upper floors of the building) and lying within the boundary of the following described property:

All that tract or parcel of land lying and being in Land Lot 764 of the 17th District, 2nd Section, Cobb County, Georgia, and being the entire "footprint" of "Building #1," as shown on that certain Final Plat for: Olde Ivy at Vinings Commercial Condominiums, dated February 23, 2001, prepared by Gaskins Surveying Co., certified by and bearing the seal of John C. Gaskins, Georgia Registered Land Surveyor No. 2060, which plat was recorded on 4-4-01 in Plat Book 6, Page 75, inclusive, Cobb County, Georgia records.

Together with:

BUILDING #2

All of the air space below the horizontal plane at an elevation of 904.0 feet above the N.G.V.D. of 1929 Mean Sea Level (being the top of the concrete slab between the lowermost of the building and the upper floors of the building) and lying within the boundary of the following described property:

All that tract or parcel of land lying and being in Land Lot 764 of the 17th District, 2nd Section, Cobb County, Georgia, and being the entire "footprint" of "Building #2," as shown on that certain Final Plat for: Olde Ivy at Vinings Commercial Condominiums, dated February 23, 2001, prepared by Gaskins Surveying Co., certified by and bearing the seal of John C. Gaskins, Georgia Registered Land Surveyor No. 2060, which plat was recorded on 4-4-01 in Plat Book 6, Page 75, inclusive, Cobb County, Georgia records.

Together with:

BUILDING #3

All of the air space below the horizontal plane at an elevation of 904.0 feet above the N.G.V.D. of 1929 Mean Sea Level (being the top of the concrete slab between the lowermost floor of the building and the upper floors of the building) and lying within the boundary of the following described property:

All that tract or parcel of land lying and being in Land Lots 764 and 821 of the 17th District, 2nd Section, Cobb County, Georgia, and being the entire "footprint" of "Building #3," as shown on that certain Final Plat for: Olde Ivy at Vinings Commercial Condominiums, dated February 23, 2001, prepared by Gaskins Surveying Co., certified by and bearing the seal of John C. Gaskins, Georgia Registered Land Surveyor No. 2060, which plat was recorded on 4-4-01

in Plat Book 6, Page 75, inclusive, Cobb County, Georgia records.

Together with:

FRONT PARKING AREAS

All those tracts or parcels of land lying and being in Land Lots 764 and 821 of the 17th District, 2nd Section, Cobb County, Georgia, containing approximately 0.41 acres and 1.01 acres, respectively, and being those two areas labeled "Front Parking Area," as shown on that certain Final Plat for: Olde Ivy at Vinings Commercial Condominiums, dated February 23, 2001, prepared by Gaskins Surveying Co., certified by and bearing the seal of John C. Gaskins, Georgia Registered Land Surveyor No. 2060, which plat was recorded on 4-4-01 in Plat Book 6, Page 75, inclusive, Cobb County, Georgia records.

Together with:

CONVERTIBLE SPACE

All that tract or parcel of land lying and being in Land Lot 764 of the 17th District, 2nd Section, Cobb County, Georgia, and being the entire area labeled "Convertible Space," as shown on that certain Final Plat for: Olde Ivy at Vinings Commercial Condominiums, dated February 23, 2001, prepared by Gaskins Surveying Co., certified by and bearing the seal of John C. Gaskins, Georgia Registered Land Surveyor No. 2060, which plat was recorded on 4-4-01 in Plat Book 6, Page 75, inclusive, Cobb County, Georgia records.

EXHIBIT "B"

Percentage Undivided Interest In And To The Common Elements

Unit Designation	Approximate Square Footage	Ownership Percentage
C-101	1,000	3.2
C-102	1,000	3.2
C-103	1,000	3.2
C-104	1,000	3.2
C-105	1,000	3.2
C-106	1,000	3.2
C-107	1,000	3.2
C-108	1,000	3.2
C-109	10,000	32.3
C-110	10,000	32.3
Convertible Space / C-111	3,000	9.8
TOTAL:	31,000	100.000%

F:\DOCS\05944\006\Docs\Declaration.1.doc
s:\legal\anx\georgia\olde ivy at vinings\commercial condo\declaration.2.doc
rev. 032601

- TABLE OF CONTENTS -

	<u>-Page</u>
I. GENERAL	
1. Applicability	1
2. Name	1
3. Definitions	1
4. Membership	1
5. Entity Members	1
6. Voting	1
7. Majority.....	2
8. Purpose.....	2
II. MEETINGS OF MEMBERS	
1. Annual Meetings.....	2
2. Special Meetings.....	2
3. Notice of Meetings	2
4. Waiver of Notice.....	3
5. Quorum	3
6. Adjournment	3
7. Proxy	3
8. Action Taken Without a Meeting.....	3
9. Order of Business	4
III. BOARD OF DIRECTORS	
A. <u>Composition and Selection.</u>	
1. Composition	4
2. Term of Office.....	4
3. Removal of Members of the Board of Directors	5
4. Vacancies.....	5
5. Compensation.....	5
6. Director Conflicts of Interest	5
7. Nomination.....	5
8. Elections	5
B. <u>Meetings.</u>	
1. Regular Meetings	6
2. Special Meetings	6
3. Waiver of Notice	6
4. Conduct of Meetings.....	6
5. Open Meetings	6

cast the vote for a Unit, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Unit. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote, such Persons shall not be recognized and such vote shall not be counted. No Owner or representative thereof shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if the Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if such Owner's voting rights have been suspended for any reason. If an Owner's voting rights have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a majority or a quorum or for purposes of amending these Bylaws or the Declaration.

Section 7. Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number of eligible votes, Owners, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" mean more than fifty (50%) percent of the voting power of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

Section 8. Purpose. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Condominium and performing all of the other acts that may be required to be performed by the Association pursuant to the Act, the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Act, the Declaration or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

Article II **Meetings of Members**

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during the last quarter of each year with the date, hour, and place to be set by the Board.

Section 2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President, by the Secretary, by request of any two (2) or more Board members, or upon written petition of at least twenty percent (20%) of the members. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in accordance with these Bylaws.

Section 3. Notice of Meetings. The Secretary shall mail or deliver to each Owner of record or to the Units a notice of each Association meeting at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the

be required to approve the matter at a meeting at which the total vote cast was the same as the amount of vote cast by ballot.

All solicitations for votes by written ballot shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the Association in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by written consent shall be valid only when the vote represented by written consent equals or exceeds the requisite majority of the voting power for such action. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

Section 9. Order of Business. At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration, these Bylaws or the Articles of Incorporation, unless the members present at a particular meeting vote to suspend Robert's Rules at that meeting.

Article III **Board of Directors**

A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors. During the time the Declarant has the right to appoint and remove directors and officers of the Association, the Board shall be composed of three (3) persons. After Declarant's right to appoint has terminated, the Board shall be composed of three (3) or five (5) persons, the exact number to be determined by resolution of the Board of Directors. Except for directors appointed by the Declarant, each director shall be an Owner or representative thereof. In the case of an Owner which is a legal entity, the person designated by the governing body of such entity in writing to the Secretary of the Association as the representative of such entity shall be eligible to serve as director.

Section 2. Term of Office. Notwithstanding anything to the contrary herein, Declarant shall have exclusive right and authority to appoint and remove directors and officers until the earlier to occur of: (1) three (3) years after the recording of this Declaration, (2) the date as of which Units to which eighty percent (80%) of the undivided interests in the Common Elements pertain shall have been conveyed to Owners other than a Person constituting the Declarant, or (3) the surrender by Declarant of the authority to appoint and remove officers and directors by an express amendment to this Declaration executed by Declarant. At the first election of directors of the Association following the expiration or termination of the Declarant's right to appoint directors hereunder, a majority of the directors shall be elected for a term of two (2) years and the remainder

B. Meetings.

Section 1. Regular Meetings. Regular Board meetings shall be held at least two (2) times per year at such time and place as determined by the Board. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership.

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

Section 3. Waiver of Notice. Any director may, at any time, in writing, waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting shall also constitute a waiver of notice by such director of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 4. Conduct of Meetings. The President shall preside over all Board meetings, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. The presence of directors entitled to cast at least one-half (1/2) of the votes of the Board shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other. Directors may not participate in meetings by proxy.

Section 5. Open Meetings. Board meetings need not be open to the members. However, if the Board permits members to attend Board meetings, then members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

Section 6. Action Without a Meeting. Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent in writing to such action. Such written consents must describe the action taken, be signed by no fewer than a majority of the directors, and be filed with the Board minutes.

C. Powers and Duties.

Section 1. Powers and Duties. The Board shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws, the Board shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility, as defined in the Declaration;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Elements, Association property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which the Board shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. Section 14-3-302, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations and imposing sanctions for violation thereof, including reasonable monetary fines;
- (g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to, or alterations of, the Common Elements in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty;
- (i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by the Board;
- (j) obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;
- (k) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;

Section 2. Architectural Control Committee. The Board shall appoint an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Condominium, as provided in the Declaration.

Section 3. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 4. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

Article IV Officers

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

Section 2. Election of Officers. The Association officers shall be elected annually by the Board at the first Board meeting following each annual Association meeting and shall hold office at the Board's pleasure and until a successor is elected.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the Board members, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 5. President. The President shall be the chief executive officer of the Association and shall establish the agenda for and preside at all Association and Board meetings. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the members as the President may decide is appropriate to assist in the conduct of the affairs of the Association.

Section 6. Vice President. The Vice President, if elected, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 2. Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Elements unless and until the Board has sent or delivered written notice to the violator as provided in Section 2(a) of this Article. However, compliance with this Section shall not be required for the following: (i) late charges on delinquent assessments, (ii) suspension of voting and use rights if an Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to vote and the right to use the Common Elements shall be automatic, and (iii) suspension of common utility services, which shall require compliance with the provisions of Section 10(c)(v) of the Declaration.

(a) Notice. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) Hearing. If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity for compliance with the procedure set forth in Section 2 of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including, without limitation, reasonable attorney's fees actually incurred.

Article VI **Miscellaneous**

Section 1. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) If to an Owner, at the address which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Owner;

(b) If to an Occupant, at the address of the Unit occupied; or

(c) If to the Association, the Board 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 in writing and filed with the Secretary.

Section 2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 4. Gender and Grammar. The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 5. Fiscal Year. The fiscal year of the Association may be set by Board resolution, or in the absence thereof, shall be the calendar year.

Section 6. Financial Review. A financial review of the Association's accounts shall be performed annually in the manner provided by the Board. However, after receiving the Board's financial review at the annual meeting, the Owners may, by the vote of a majority of the total Association vote, require that the Association's accounts be audited as a Common Expense by an independent accountant.

Section 7. Conflicts. The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of these Bylaws or by the Act, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent, of the members holding sixty-six and two-

SATELLITE DISH INSTALLATION NOTIFICATION

Name _____ Date _____

Address _____ Home Phone _____

C.ty/State/Zip _____ Office Phone _____

Community _____ Lot/Block _____

Please provide the Covenants Committee with all information necessary to evaluate the request thoroughly and quickly. Notification must include, without limitation, the following information: site plan (including all dimensions), detailed description of installation location, and any other information as specifically required below or as required by the Design Guidelines approved for the community.

Description of Installation:

Estimated Start Date _____ Estimated Completion Date _____

No transmission antennas or satellite dishes of any kind, and no direct broadcast satellite ("DBS") antennas or multi-channel multi-point distribution service ("MMDS") antennas larger than one (1) meter in diameter, shall be placed, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board of Directors or its designee. DBS and MMDS antennas and satellite dishes one (1) meter or less in diameter and television broadcast service antennas may be installed only if reasonably screened and located as approved by the Board of Directors or its designee and installed in accordance with the rules and regulations of the Federal Communications Commission and of the Association, both as may be amended from time to time. However, the Board and Declarant reserve the right to (but shall not be obligated to) erect any type and size of master antenna, satellite dish or other similar master system for the benefit of the Community. Each Owner and Occupant acknowledges that this provision benefits all Owner's and Occupant's and each Owner and Occupant agrees to comply with this provision despite the fact that the erection of any individual outdoor antenna or similar device would be the most cost-effective way to receive the signals sought to be received.

Note: I understand and agree that no approval is necessary provided antenna installation follows the Association adopted guidelines. If not installed pursuant to these guidelines, it may be requested that satellite dish/antenna be relocated.

Neither John Wieland Homes and Neighborhoods, Inc., the Association Board of Directors, the Association Committee's nor their respective members, Secretary, successors, assigns, agents, representatives or employees shall be liable for damages or otherwise to anyone requesting approval of an architectural alteration by reason of mistake in judgment, negligence or non-feasance, arising out of any action with respect to any submission. The Architectural Review is directed toward review and approval of site planning, appearance and aesthetics. None of the foregoing assumes any responsibility regarding design or construction, including, without limitation, the structural integrity, mechanical or electrical design, methods of construction, or technical suitability of materials. I hereby release and covenant not to sue all of the foregoing from/for any claims or damages regarding this request or the approval or denial thereof.

By signing this, I will comply with all of the Association's rules for installing, maintaining, and using antennas. I assume liability for any damage to Association and other property that occurs due to antenna installation, maintenance and use.

If installation does not comply with the Association's rules, please provide 3 days and times which you will be available to meet and discuss the installation.

Owner's Signature _____ Date _____

Comments:

REQUEST FOR MODIFICATION REVIEW

Name _____ Date _____

Address _____ Home Phone _____ E-mail _____

City/State/Zip _____ Office Phone _____

Community _____ Lot/Block _____

Please provide the Covenants Committee with all information necessary to evaluate the request thoroughly and quickly. Requests must include, without limitation, the following information: site plan (including all dimensions), color chips (if applicable), detailed description of request, list of materials, pictures (if applicable), and any other information as specifically required below or as required by the Design Guidelines approved for the community.

Description of Modification Requested:

Estimated Start Date _____ Estimated Completion Date _____

Acknowledgment of Adjacent Homeowners (all homeowners sharing common boundary line): This acknowledgement will be considered by the Covenants Committee but will not be binding upon the Covenants Committee. No application will be considered unless this section is completed.

Signature _____ Lot () Approve () Disapprove ()
Signature _____ Lot () Approve () Disapprove ()
Signature _____ Lot () Approve () Disapprove ()

Under each of the most common headings below, all the items listed must be submitted. Please refer to the Guidelines for other necessary information required for modifications such as detached structures, outdoor play equipment, pools, tennis courts, etc.:

Patio or Walkway

- Lot survey denoting location
List of materials to be used

Exterior Decorative Objects, Front Porch Flower Pots, Lighting, Etc.

- Description of object
Location and picture or sketch of object
Description and location of proposed lighting

Garden Plot

- Location and size of garden
Type of plants to be grown

Play Houses

- Location (must have minimum visual impact on adjacent properties)
Size and Sketch (limited to an area not to exceed 100 square feet)
Materials (in most cases, material used must match existing materials of home)

Private Pool

- Picture or drawing of pool type.
Dimensions (maximum size 1,000 square ft.)
Color (must be blue or white).
Site plan denoting location.
Type of lighting source.
Landscape plan

Fencing

- Picture or drawing of fence type.
Dimensions (maximum height may not exceed 6 feet; maximum span between posts shall be ten feet; minimum post size shall be 4x4 inches; must have two 2x8 inch rails or three 2x6 inch horizontal rails per section).
Color (wood - natural or painted to match trim; vinyl - white or painted to match trim; wrought iron - black).
Site plan denoting location (fence may not be located closer to any street than rear edge of home. On corner lot, fence may not be closer to side street than building line of house. Please use copy of survey from your closing package).
Crossbeam structure must not be visible from any street (must face inside toward yard).
Materials (must be cedar, cypress, vinyl, # 2 grade or better pressure-treated wood, or aluminum).
All nails, screws or fasteners shall be aluminum or hot-dipped galvanized.
Concrete footing required for all fence posts.

Exterior Landscaping and Maintenance

Landscape plan denoting plant material and location
Plat showing location of compost container

Deck/Porch

Picture or Drawing (deck must match any existing deck).
Dimensions
Color (must be natural or painted to match exterior color of home).
Site plan denoting location (in most cases may not extend past sides of home).
Materials (must be cedar, cypress or No. 2 grade or better pressure-treated pine).

Exterior Building Alterations

Paint (Submit only if other than original paint color)

Color and address of home with desired John Wieland Homes and Neighborhoods' color used in or approved for this or another John Wieland community in the same county.
Area of home to be repainted.
Photograph of your home plus homes on either side (in most cases adjacent homes cannot be painted the same colors).

Storm Windows/Doors

Picture or drawing of all windows/doors on which storm windows/doors will be installed.
Picture depicting style of storm window/door to be installed.
Color (window/door trim must be baked enamel and color must be compatible with primary and trim colors).

Building Additions

Location of addition and size of lot.
Size, color, and detailed architectural drawing of addition.
Materials (material used must match existing materials of home).
Building Permit (if required).

Note: I understand and agree that no work on this request shall commence until written approval of the Covenants Committee has been received by me. I represent and warrant that the requested changes strictly conform to the community Design Guidelines and that these changes shall be made in strict conformance with the Design Guidelines. I understand that I am responsible for complying with all city and county regulations.

Neither John Wieland Homes and Neighborhoods, Inc., the Association Board of Directors, the Association Advisory Committee or the Association Covenants Committee nor their respective members, Secretary, successors, assigns, agents, representatives or employees shall be liable for damages or otherwise to anyone requesting approval of an architectural alteration by reason of mistake in judgment, negligence or non-feasance, arising out of any action with respect to any submission. The Architectural Review is directed toward review and approval of site planning, appearance and aesthetics. None of the foregoing assumes any responsibility regarding design or construction, including, without limitation, the structural integrity, mechanical or electrical design, methods of construction, or technical suitability of materials. I hereby release and covenant not to sue all of the foregoing from/for any claims or damages regarding this request or the approval or denial thereof.

Owner's Signature _____ Date _____

FOR COVENANTS COMMITTEE USE ONLY:

Date Received _____ Date Reviewed: _____ Approved By: _____
(Covenants Committee Member)

Approved _____ Not Approved _____ Conditions _____

Comments: