

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
RUBY FOREST**

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MODEL CONSENT FORM(S).....	"C"
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**THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA
PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.**

Return to:

STATE OF GEORGIA Cross Reference: Deed Book 10626

Page 0231

COUNTY OF GWINNETT

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR
RUBY FOREST**

WHEREAS, Ruby-Forrest, Ltd., a Georgia Limited Partnership, (hereinafter referred to as "Developer"), recorded the Protective Covenants for Ruby Forest Subdivision on August 20, 1994 in Deed Book 10626, Page 0231, et seq., Gwinnett County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, plats prepared by S.R. Davis of Ringo-Abernathy & Associates were filed in the Gwinnett County land records as follows:

<u>Recording Date</u>	<u>Plat Book/Page</u>
July 27, 1994	63/117
February 2, 1997	72/287
June 2, 1994	62/215
January 19, 1999	79/264
March 22, 1995	65/270
January 25, 1995	65/97
February 11, 1998	76/189
January 25, 1995	65/98
March 21, 1996	69/227
August 14, 1998	78/98
March 23, 2000	84/129

WHEREAS, Paragraph 35 of the Original Declaration provides for amendment of the Protective Covenants by the Developer with the approval of the Architectural Control Committee; and

WHEREAS, an agreement approving this amendment has been signed by the Developer with the approval of the Architectural Control Committee; and

WHEREAS, the Lot Owners at Ruby Forest Subdivision in Gwinnett County, Georgia, whose consents are attached hereto as Exhibit "B" and incorporated herein by reference, are the owners of that certain real property described in such consents and desire to subject the Permanent Membership Property to permanent mandatory membership in the Ruby Forest Homeowners' Association, Inc. as provided in this Declaration; and

WHEREAS, the undersigned officers of the Association desire to approve this Declaration and permanent mandatory membership in the Association on behalf of the Association; and

WHEREAS, these Amendments do not alter, modify, change or rescind any right, title, interest, or privilege held by any first Mortgage Holder; provided, however, in the event a court of competent jurisdiction determines that these Amendments do alter, modify, change, or rescind any right, title, interest, or privilege held by any first Mortgage Holder without such first Mortgage Holder's consent in writing to these Amendments, then these Amendments shall not be binding on the first Mortgage Holder so involved, unless such first Mortgage Holder consents to these Amendments; and if such consent is not forthcoming, then the provisions of the Original Declaration and Original By-Laws effective prior to these Amendments shall control with respect to the affected first Mortgage Holder;

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

**FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR RUBY FOREST**

1. NAME.

The name of the property is Ruby Forest, which property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq.

2. DEFINITIONS.

Generally, terms used in this Declaration 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 shall be defined as follows:

2.1. **Act** means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq., as may be amended.

2.2. **Additional Property** means all those Lots shown on the Ruby Forest Plats, the owners of which have not yet executed a Consent Form submitting such Lot to permanent mandatory membership in the Association and whose Consent Form is not attached hereto or incorporated herein as Exhibit "B."

2.3. **Architectural Control Committee or ACC** means the committee established to exercise the architectural review powers set forth in Paragraph 9 hereof.

2.4. **Area of Common Responsibility** means the Common Property, together with any areas which become the Association's responsibility under this Declaration or by contract or agreement with any other Person. The office of any property manager employed by or contracting with the Association, if located on the Property, or any public rights-of-way within or adjacent to the Property, may be part of the Area of Common Responsibility.

2.5. **Articles or Articles of Incorporation** mean the Articles of Incorporation of Ruby Forest Homeowners' Association, Inc., filed with the Secretary of State of the State of Georgia.

2.6. **Association** means Ruby Forest Homeowners' Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

2.7. **Association Legal Instruments** means this Declaration and all exhibits hereto, including the Association's By-Laws, and the plats, all as may be supplemented or amended.

2.8. **Board or Board of Directors** means the elected body responsible for management and operation of the Association.

2.9. **By-Laws** mean the By-Laws of Ruby Forest Homeowners' Association, Inc., as amended.

2.10. **Civic Member** means a Lot Owner who may exercise the rights and privileges of membership for Civic Members pursuant to the By-laws including limited voting rights and whose dues or assessments are less than those established for Permanent Members. Civic members are not authorized to use the Association's recreational facilities nor are they afforded voting privileges regarding the same. Civic Member Lots may be continuous and mandatory until such time that it is subjected to Permanent Membership upon conveyance to

a third party by written consent recorded in the Gwinnett County, Georgia land records as provided in Paragraph 4 hereof. Otherwise, Civic Membership is voluntary as defined hereunder in section 2.35.

2.12. **Common Property** means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

2.13. **Common Expenses** mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, improving, insuring, managing and operating the Common Property and Property for the benefit of the Association and the Members.

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

2.15. **Director** shall mean an individual member of the Board of Directors, which is responsible for the management and operation of the Association.

2.16. **Effective Date** means the date that this Declaration is recorded in the Gwinnett County, Georgia land records.

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

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

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

2.20. **Member** means a member of the Association, including Permanent Full Members, Permanent Civic Members and Voluntary Members.

2.21. **Mortgage** means to 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.

2.22. **Mortgagee or Mortgage Holder** means an individual or entity which holds either a lien or security interest in the subject property pursuant to O.C.G.A. §44-14-30 and §44-14-60.

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

2.24. **Officer** means an individual who is elected by the Association membership to serve as President, Vice President, Secretary, or Treasurer, or such other subordinate officers as the Board may determine necessary.

2.25. **Owner** means the record title holder of a Lot, but shall not include a Mortgage Holder, unless the Mortgage Holder owns title to such Lot in addition to just the Mortgage.

2.26. **Permanent Member** means a Lot Owner who may exercise all the rights and

privileges of membership for Permanent Full Members as more particularly defined in the By-laws and whose Lot has been submitted to Permanent Membership, in the Association by written consent recorded in the Gwinnett County, Georgia land records, as provided in Paragraph 4 hereof.

2.27. **Permanent Civic Member** means a Lot owner who may exercise all the rights and privileges of Civic Members pursuant to the By-laws and who has consented to continuous and mandatory Civic Membership in the Association until such time that the Lot is subjected to Permanent Full Membership upon conveyance to a third party by written consent recorded in the Gwinnett County, Georgia land records as provided in Paragraph 4 hereof.

2.28. **Permanent Full Member** means a Lot Owner who may exercise all the rights and privileges of membership for Permanent Full Members pursuant to the By-laws and whose Lot has been submitted to Permanent Membership, in the Association by written consent recorded in the Gwinnett County, Georgia land records, as provided in Paragraph 4 hereof.

2.29. **Permanent Member Lot** means a Lot subject to Permanent Membership in the Association hereunder.

2.30. **Permanent Membership** means a membership in the Association which is permanent and mandatory and which cannot be separated from a Lot, but rather is appurtenant to and runs with title to a Lot by virtue of a written consent, recorded in the Gwinnett County, Georgia land records, as provided in Paragraph 4 hereof. Unless otherwise specified, all references herein to Permanent Membership shall deemed to mean Membership of Permanent Full Members.

2.31. **Person** means any individual, corporation, firm, association, partnership, trust, or other legal entity.

2.32. **Pledged Member** means an owner of a lot who is not a Member of the Association and whose Lot has not yet been subjected to Permanent Membership in the Association; however, the Owner has subjected the Lot to Permanent Full Membership upon conveyance to a third party that is appurtenant to and runs with title to a Lot by virtue of a written consent, recorded in the Gwinnett County, Georgia land records, as provided in Paragraph 4 hereof.

2.33. **Property** means that real estate which is submitted to the Act and the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference. The Property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq. (Michie 1982), as may be amended.

2.34. **Ruby Forest Subdivision** means the property described on those plats ("Plats") for Ruby Forest recorded in Plat Book 63, Page 117; Plat Book 72, Page 287; Plat Book 62, Page 215; Plat Book 79, Page 264; Plat Book 65, Page 270; Plat Book 65, Page 97; Plat Book 76, Page 189; Plat Book 65, Page 98; Plat Book 69, Page 227; Plat Book 78, Page 98; and Plat Book 84, Page 129 Gwinnett County, Georgia land records, as may be amended and supplemented from time to time. The Plats are incorporated herein by this reference.

2.35. **Voluntary Member** means an Owner of lot who is a Civic or Full Member of the Association, but whose Lot has not been subjected to Permanent Membership in the Association by written consent recorded in the Gwinnett County, Georgia land records, as provided in Paragraph 4 hereof.

3. LOCATION, PROPERTY DESCRIPTION, AND PLATS.

The Property subject to this Declaration and the Act is located in Land Lots _____ 234 and 254, of the 7th District of Gwinnett County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. Plats of survey relating to the Property have been filed in Plat Book 63, Page 117; Plat Book 72, Page 287; Plat Book 62, Page 215; Plat Book 79, Page 264; Plat Book 65, Page 270; Plat Book 65, Page 97; Plat Book 76, Page 189; Plat Book 65, Page 98; Plat Book 69, Page 227; Plat Book 78, Page 98; and Plat Book 84, Page 129 of the Gwinnett County, Georgia records. The plats of survey are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

4. EFFECTIVE DATE.

This Declaration shall not be effective until and unless this Declaration and such Consents have been recorded in the Gwinnett County, Georgia land records. Additional Consents, in a form substantially similar to the consent attached hereto as Exhibit "C" and incorporated herein by this reference, by Owners of Lots within the Additional Property, may be recorded at any time subsequent to the recording of this Declaration, subject to the terms of this Declaration. Consents shall be valid only if executed by at least one officer of the Association and recorded by the Association. Any Lot Owner having any permanent structure or fixture (i.e. home, garage, fence, deck, shed, out building, etc.) installed or constructed on the Lot on or before the date this Declaration is recorded which was fully authorized under the Original Declaration but may be deemed to violate this Declaration, shall be fully indemnified from any enforcement rights afforded herein. Notwithstanding, any violation of the Original Declaration which remains a violation of this Declaration shall be fully enforceable and nothing stated herein shall constitute a waiver of the enforcement rights afforded herein.

5. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

5.1. Membership. The following definitions of membership are not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Any rights and privileges of membership, including the right to vote and to hold office, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

a) Permanent Member. Each Person who is the record owner of a fee or undivided fee interest in any Lot subject to this Declaration, and whose Lot is submitted to Permanent Membership in the Association by written consent recorded in the Gwinnett County, Georgia land records, shall be a Permanent Member of the Association and shall be entitled to vote as set forth herein and in the Bylaws of the Association. Permanent Membership shall be appurtenant to and may not be separated from ownership of any such Permanent Membership Lot. Unless otherwise indicated, all references herein to Permanent Members or Permanent Membership shall be deemed to refer to lot owners who are Full Members of the Association as more specifically defined in the Association's Bylaws.

b) Civic Member: Civic Membership may be offered in the discretion of the Board. Each person who is the record owner of a fee or undivided fee interest in any Lot subject to this Declaration, and whose Lot is submitted to Civic Membership in the Association by written consent recorded in the Gwinnett County, Georgia land records, shall be a Civic Member of the Association and shall be entitled to vote as set forth herein and in the Bylaws of the Association. Additionally, a lot owner who executes and records a written consent for Permanent Civic Membership, is subject to Civic Membership that is ongoing and mandatory until such time that the Lot has been subjected to Permanent Full Membership upon conveyance to a third party. Successors in interest to the lot shall be Permanent Full Member(s) and said

membership shall appurtenant to and may not be separated from ownership of any such Permanent Membership Lot. Said member which are subject to said written consent shall hereinafter be referred to as "Permanent Civic Members." Civic members who do not execute said written consent shall be "Voluntary Civic Members."

c) Pledged Member. Each Person who is the record owner of a fee or undivided fee interest in any Lot subject to this Declaration, and whose Lot has not been submitted to Permanent Membership as set forth herein above, however, the Owner has subjected the lot to Permanent Full Membership upon conveyance to a third party as evidenced by the written consent recorded in Gwinnett County, Georgia shall be a Pledged Member of the Association. Pledged Members, unless also Voluntary Members, shall not be entitled to vote as set forth herein. Successors in interest to the lot shall be Permanent Full Member(s) and said membership shall appurtenant to and may not be separated from ownership of any such Permanent Membership Lot.

d) Voluntary. Yearly voluntary Civic or Full memberships, as more particularly defined in the By-laws, may also be offered in the discretion of the Board on a voluntary basis for Owners whose Lots have not been submitted to Permanent Membership in the Association. Voluntary Membership or use passes shall be contingent upon payment of dues established by the Board and compliance with the Declaration, By-Laws and rules and regulations of the Association.

5.2. Voting. All Members in good standing shall be entitled to one (1) equal vote for each Lot owned. As more specifically set out in the By-laws, Civic Members shall not be entitled to vote on matters involving or related to the use, maintenance or operation of the Association's recreational facilities. When more than one (1) Person holds an ownership interest in any Member Lot, the vote for such Lot shall be exercised as such Owners determine among themselves and advise the Secretary prior to any meeting. In the absence of such advice, the Member Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

6. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

6.1. to make and to enforce reasonable rules and regulations governing the use of the Property, including the Lots and the Common Property;

6.2. to enforce the provision of this Declaration and the By-Laws and rules and regulations concerning the Property and Common Property, by imposing reasonable monetary fines, suspending use and voting privileges of Permanent Full and Permanent Civic Members (as provided herein and in Section 44-3-223 of the Act), suspending or revoking Memberships of Voluntary Members, using any other legal or equitable means, including self-help, and any other available legal or equitable means. These powers, however, shall not limit any other legal means of enforcing the Declaration, Bylaws and rules and regulations by either the Association or, in an appropriate case, by an aggrieved Owner. Any fines imposed shall be considered an assessment against a Permanent Full or Civic Member's Lot;

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

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

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

6.6. to represent the Owners in dealing with governmental entities;

6.7. to close permanently or temporarily any portion of the Common Property with, except in emergency situations, sixty (60) days prior notice to all Members, provided, however, the Members may re-open the closed Common Property by a majority vote of the total Association vote, cast at a duly called special or annual meeting;

6.8. to acquire, hold, and dispose of tangible and intangible personal property and real property.

7. ASSESSMENTS.

7.1. General. The Association shall have the power to levy assessments or dues against all Members as provided herein and in the Bylaws. The assessments for Common Expenses provided for herein shall be used for the general purposes of maintaining, repairing, replacing, insuring, managing, operating and, in the Board's discretion, improving the Common Property, otherwise operating the Property, enforcing this Declaration and other covenants upon the Property, paying for utility services serving the Common Property, maintaining a reserve fund for future Common Property maintenance, repairs or improvements, and promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots in the Property and the Members, as may be more specifically authorized from time to time by the Board. Except as otherwise provided herein, each Permanent Member Lot is hereby allocated equal liability for Common Expenses, which need not be equal with that of Civic or Voluntary Members.

7.2. Permanent Full and Permanent Civic Members: Creation of the Lien and Personal Obligation For Assessments. Each Owner of a Permanent Full or Permanent Civic Member Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments (dues) or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, in the maximum amount permitted under the Act, shall be a charge on such Permanent Full or Permanent Civic Member Lot and shall be a continuing lien in favor of the Association upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner of a Permanent Full or Permanent Civic Member Lot and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include acceleration of any unpaid portion of any annual or special assessment for delinquent Owners upon ten (10) days written notice. If the Board authorizes payment of the annual assessment in installments, the Board may levy an additional charge on each installment, such amount not to exceed ten percent (10%) of the amount of the installment payment. The lien provided for herein shall have priority as set forth in the Act. The sale or transfer of any Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments as to payments coming due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter coming due or from the lien thereof. No Permanent Full or Permanent Civic Member may

exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever.

7.3. Delinquent Assessments. All assessments and related charges not paid on or before the due date established by the Board shall be delinquent, and the Member shall be in default.

a) If the annual assessments or any part or installment thereof is not paid in full within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid may be imposed without further notice or warning to the delinquent Member, and interest at the highest rate permitted under the Act (or the highest rate otherwise permitted under Georgia law for Voluntary Members) shall accrue from the due date.

b) If assessments, fines or other charges, or any part thereof due from a Member remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Member stating that if the assessment or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Member's unpaid installments of the annual assessments (if such amounts are being paid by installment). If a Member fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Member (if such amounts are being paid by installment). Upon acceleration, that Member shall thereby lose the privilege of paying the annual assessment in quarterly installments for that fiscal year.

c) For Owners whose Lots are subjected to Permanent Full or Permanent Civic Membership in the Association hereunder, the Association, acting through the Board, may suspend the Owner's right to use the Common Property if any amount remains unpaid for more than thirty (30) days, and institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, and the Act, if the amounts remain unpaid for more than sixty (60) days.

d) For Voluntary Members, if assessments or other charges, or any part thereof, due from such Member remain unpaid more than thirty (30) days, the Association may revoke such Member's membership in the Association upon ten (10) days written notice.

e) If part payment of assessments and related charges is made, the amount received shall be applied first to costs and attorneys fees, as applicable, and then, in order, to late charges, interest, delinquent assessments, and current assessments.

7.4. Maximum Assessments; Computation of Operating Budget and Assessment.

a) *Permanent Full and Permanent Civic Member Assessment.* The annual assessment shall be established pursuant to a budget created and adopted by the Board, covering the estimated costs of maintaining and operating the Common Property and otherwise operating the Property during the coming year. The budget and notice of assessment shall be sent or delivered to each Permanent Full and Permanent Civic Member at least twenty-one (21) days prior to the annual meeting. The budget shall include amounts to cover anticipated Common Expenses of operating, maintaining, repairing, improving and managing all of the Common Property, including insurance, legal, accounting and other professional fees, landscaping costs, and a reserve or capital contribution related to maintenance, repair, improvement and operation of the Common Property. The budget may reflect anticipated income to be received from Voluntary Members, and the Permanent Full

and Permanent Civic Member assessment shall be determined from the budget prepared by the Board. The budget and the assessment (provided it does not increase or decrease more than ten (10.0%) percent from the previous year's assessment) shall automatically become effective without a vote of the Members unless disapproved at a duly called and constituted annual Association meeting by a vote of a majority of the total Permanent Full and Permanent Civic Members; however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at the meeting. If the annual assessment for Permanent Full or Permanent Civic Members increases or decreases by more than ten (10.0%) percent from the previous year's annual assessment, such new assessment shall not be permitted without the approval of a majority of the eligible Permanent Full and Permanent Civic Members who are voting in person or by proxy at a duly called Association meeting, or by ballot. Notwithstanding the foregoing, however, if the Permanent Full and Permanent Civic Membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the Permanent Full and Permanent Civic Members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the Permanent Full and Permanent Civic Members, as provided in the By-Laws for special meetings, the new budget and assessment shall take effect without a meeting of the members. The budget shall reflect all amounts to be received from assessments, from all easement agreements and shared cost agreements with other entities or persons, and from all other sources.

b) *Voluntary Member Assessment.* The Board also shall establish the annual assessment chargeable to Voluntary Full and Civic Members which shall contribute to the Common Expenses of the Association. The Board shall cause the budget and notice of the assessments to be levied against each Voluntary Member for the following year to be delivered to each Voluntary Member as provided in subparagraph (d)(i) above. Each Voluntary Member shall be personally liable for all assessments, as well as for any Common Expenses occasioned by the conduct of such Member or such Member's guests or invitees.

7.5. Initiation Fee. Subsequent to the Enrollment Period, the Board, in its reasonable discretion, may require a non-refundable initiation fee in order to become a Member. Notwithstanding anything to the contrary herein, the Board shall have the right to establish a lower initiation fee for Owners who purchase a lot in Ruby Forest after the Enrollment Period if, within ninety (90) days of such purchase, such Owners execute a Consent substantially in the same form as the Consent attached hereto as Exhibit "C" and thereby become Permanent Members. The Board shall have the right, but not the obligation, to provide for open enrollment periods subject to restrictions the Board may require.

7.6. Special Assessments. In addition to the annual assessment provided for above, the Board may at any time levy a special assessment for any purpose against all Members, notice of which shall be sent to all Permanent Full and Permanent Civic Members; provided, however, prior to becoming effective, any special assessment first shall be approved by the affirmative vote of at least a majority of eligible Permanent and Civic Members who are voting in person or by proxy at a duly called meeting, notice of which shall specify that purpose, or by ballot specifying that purpose. Special assessments chargeable to Voluntary Full and Voluntary Civic Members shall be equal to the special assessment chargeable to Permanent Members. However, Civic Members may be excluded from special assessments for items that involve the recreational facilities on the Property, and such Members shall not participate in the vote for such special assessments.

7.7. Capital Budget and Reserve Contribution. As part of the annual budget and assessment, the Board may fix and establish an annual reserve or capital contribution, in an amount sufficient to permit meeting the projected capital and future needs of the Association.

7.8. Statement of Account. Any Owner, Mortgage holder, or a Person having executed a contract for the purchase of a Permanent Full or Permanent Civic Member Lot, or a lender considering a loan to be secured by a Permanent Full or Permanent Civic Member Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Permanent Full or Permanent Civic Member Lot. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, or such higher amount as 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 Lot as of the date specified therein.

7.9. Specific Assessments. In the discretion of the Board, any Association Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot(s), including but not limited to reasonable attorneys fees actually incurred by the Association, may be specially assessed against such Lot(s). Failure of the Board to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Paragraph in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Paragraph.

7.10. Notwithstanding anything to the contrary herein, Ruby-Forrest, Ltd., as the Owner of any Lot at Ruby Forest shall not be obligated to pay any annual, monthly or special assessment. Lots owned by Ruby-Forrest, Ltd. shall be Permanent Member Lots, as evidenced by the Consent Form executed by Ruby-Forrest, Ltd. attached hereto and incorporated herein as Exhibit "B" however, the Association shall not collect assessments on such Lots until such Lots are improved and sold to or occupied by Persons for residential purposes.

8. INSURANCE.

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

8.2. The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

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

- a) All policies shall be written with a company licensed to do business in Georgia.
- b) All policies on the Common Property shall be for the benefit of the Association and its members.

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

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

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

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

iii) a provision that no policy may be canceled, invalidated, suspended or subjected to non-renewal on account of any one or more Owners;

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

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

vi) that no policy may be canceled or substantially modified or subjected to non-renewal without at least thirty (30) days' prior written notice to the Association.

8.4. **Individual Insurance.** Each Owner covenants and agrees that in the event of damage and destruction of structures on his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Section 9 of this Declaration, unless a determination not to rebuild is made in accordance with Section 9 hereof. In the event that the structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

9. ARCHITECTURAL CONTROLS.

9.1. **Architectural Standards.** Except as provided herein, no Owner, Occupant, or any other person may make any encroachment onto the Common Property, or make any exterior change, alteration, or construction (including painting and landscaping that may be considered non-compliant with acceptable community standards as determined by the Architectural Control Committee) on any Common Property or on any Lot, nor erect, place or post any object, sign, antenna, playground equipment (which is on the Lot, other than in the backyard), playhouse, tool shed, mailbox, dog house, tennis court, swimming pool, light, artificial vegetation, exterior sculpture, fountains, or other thing on the exterior of the buildings on any Common Property or on any Lot, without first obtaining the written

approval of the Architectural Control Committee. 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, Lots and structures, and the location in relation to surrounding structures and topography.

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Committee may reasonably require. Applications for approval shall be deemed "submitted" upon the receipt by any member of the Committee of such information as the Committee may reasonably require. In the event the application is deficient in some fashion, the entire application shall be returned to the Owner within seven (7) days as insufficient with a written statement of what is needed before the application shall be properly "submitted". However, all approvals and disapprovals of submitted plans shall be in writing. However, in the event that the Committee or its designated representative fails to approve or to disapprove an application within twenty-one (21) days after the application and such information as the Committee may reasonably require shall have been properly "submitted", its approval will not be required and this subparagraph (a) will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations. The Committee or its designated representative may withhold approval for any reason, including purely aesthetic considerations. In the event an Owner's request is disapproved by the Committee, if such Owner can obtain the written approval of such plans and specifications from twenty-five (25%) percent of the eligible Lot Owners, excluding the Owner's Lot, then the decision to disapprove such Owner's request shall be overturned and the Committee shall send a notice of approval to such Owner within fourteen (14) days of receipt of the required number of written approvals from other eligible Lot Owners.

The Board or the Committee may publish written architectural standards for exterior and Common Property alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Lots and the location in relation to surrounding structures and topography of the vicinity. The Architectural Control Committee or the Board, subject to this subparagraph 9.1, may allow such encroachments on the Common Property as it deems acceptable.

Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. If an Owner does not comply with this Section, the Board may record it in the appropriate land records a notice of violation naming the violating Owner, in addition to any other available remedies.

9.2. Architectural Control Committee. The Architectural Control Committee shall constitute a standing committee of the Association. The Committee shall consist of the Board unless the Board delegates to other Lot Owners the authority to serve on the Committee. The Board may delegate such authority to individual Lot Owners by resolution, or the Board may call for a special election by the Association to select the Lot Owners to whom the authority shall be delegated. At all times, however, the chairperson of the Committee shall be the Vice President.

9.3. Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition, or alteration. In

the discretion of the Board or the Committee, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

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

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

9.6. Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the Architectural Control Committee. If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping that may be considered non-compliant with acceptable community standards as determined by the Architectural Control Committee) upon the Common Property in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain on the Common Property without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

10. USE RESTRICTIONS.

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants. Use restrictions regarding use of Lots and the Common Property are as follows and also as may be adopted by the Board in accordance with the terms hereof and as specified in the By-Laws.

10.1. Residential Use. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Property, including business uses ancillary to a primary residential use, except that the Owner or

Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within the dwelling so long as

- a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling;
- b) the business activity does not involve unreasonable (as determined in the Board's discretion) visitation of the Lot by employees, clients, customers, suppliers or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary parcel delivery services (U.P.S., Federal Express, etc.);
- c) the business activity conforms to all zoning requirements for the Property;
- d) the business activity does not increase traffic in the Property;
- e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and
- f) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: 1) such activity is engaged in full or part-time; 2) such activity is intended to or does generate a profit; or 3) a license is required therefor. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this subparagraph. No lot shall be used for a school, church or day care facility.

10.2. Subdivision of Lots and Accessory Structures and Outbuildings. No Lot may be subdivided into a smaller Lot. No swimming pool, outdoor spa, tennis courts or structure of a temporary character, trailer, tent, shack, carport, garage, barn, playhouse, tool shed, dog house or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Property, at any time, either temporarily or permanently, without the prior written approval of the Architectural Control Committee. However, no accessory structure or outhouse shall be approved if it shall be more than twenty (20) feet high, if it does not conform in exterior design and quality to the dwelling on the same Lot, if it is located somewhere on the Lot other than behind the dwelling (as such dwelling fronts on the street abutting such Lot) or if it shall be in violation of the side and rear setback lines. Furthermore, lighting of tennis courts or pools or any other outside lighting must be approved in writing by the Architectural Control Committee prior to its installation.

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

With prior written Board approval, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Property for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Property hereunder shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Property and

all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

10.4. Prohibition of Damage, Nuisance and Noise. Without prior written Board consent, nothing shall be done or kept on the Property or any part thereof which would increase the rate of insurance on the Property or any Lot or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses. Noxious, destructive or offensive activity shall not be carried on upon the Property. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, nuisance or annoyance to other Owners or Occupants. No Owner or Occupant of a Lot may use or allow the use of the Lot or any portion of the Property in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or Occupants of a portion of the Property, or in such a way as to constitute, in the Board's sole opinion, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. No Owner or Occupant of a Lot may use or allow the use of the Lot or the Common Property in any manner which creates disturbing noises between the hours of 11:00 p.m. and 7:30 a.m. that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of the other Owners or Occupants. No Owner shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Property or any structure created thereon, would reduce the value thereof, or would impair any easement or hereditament thereto, without prior written consent of all Association members and their Mortgagees. No damage to or waste of the Common Property, or any part thereof, or of the exterior of any building constructed upon any Lot shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

10.5. Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Property, as determined in the Board's discretion. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property without prior written Board approval as provided in Paragraph 9 hereof. All animals must be leashed and controlled and all pet owners are obligated to discard their pet's feces in accordance with Gwinnett County ordinances. No animals determined in the sole discretion of the Board to be dangerous may be brought onto or kept on the Property at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, must be permanently removed from the Property upon seven (7) days' written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board shall have the authority and power to impose reasonable fines for each and every day the Owner or Occupant remains in violation of this provision.

10.6. Parking. Without prior written Board consent, no vehicles may be parked overnight on the Common Property; provided, however, the Board may adopt reasonable rules limiting the number of vehicles which may be parked at the Property. Vehicles only may be parked in designated parking spaces, in garages, on paved driveways on lots, or other areas authorized in writing by the Board. No vehicles may be parked overnight on any street in the Community. Disabled and stored vehicles are prohibited from being parked on the Property for more than fourteen (14) consecutive days. Boats, boat trailers, trucks with a load capacity of one (1) ton or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (including but not limited to RV's, motor homes,

trailers, campers, travel buses, ATV's, and golf carts), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Property, except in areas designated by the Board as parking areas for particular types of vehicles, in garages or at the extreme rear of a Lot with sufficient natural cover erected or behind screening erected in accord with the plans and specifications submitted to and approved by the ACC to shield the vehicle from view. Such approval shall not be unreasonably withheld. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Property during normal business hours for the purpose of serving any Lot or the Common Property; provided, that, without the written consent of the Board, no such vehicle shall be authorized to remain on the Common Property overnight or for any purpose except serving a Lot or the Common Property. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Property for fourteen (14) consecutive days or longer without prior written Board permission. If any vehicle is parked on any portion of the Common Property in violation of this subparagraph (f) or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Property stating the name and telephone number of the person or entity which will do the towing. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked in any grassy area on the Common Property, is parked in a space which has been assigned as exclusively serving another Lot, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. The Association's right to tow is to the extent permitted by Georgia law and is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

10.7. Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph 10.6 of this Section, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission. If the Board, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Property in violation of this subparagraph, then the Board may remove and either discard or store the personal property in a location which the Board may determine. If the Board, in its sole discretion, determines that property is being abandoned or stored in violation of this subparagraph, the Board may place a notice on the personal property and/or on the front door of the Lot of the owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored by the Board in a location which the Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation. If two (2) days after such notice is placed on the personal property and/or the front door of the Lot, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the notice, without further notice to the owner or user of the personal property. In addition to the provisions above, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this subparagraph may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board in a

location which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed. If personal property is removed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

10.8. Signs and Flags. Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee, except that one professional security sign may be displayed on a Lot and one (1) reasonably sized (as determined by the Board in its discretion) professionally lettered "For Rent" or "For Sale" sign may be displayed on a Lot being offered for sale or for lease. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. No signs or flags shall be placed in any window on any lot.

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

10.10. Impairment of Dwellings and Easements. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another dwelling or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants. No activity which may create erosion or siltation problems shall be undertaken on any Lot.

10.11. Antennas and Satellite Dishes. No transmission antenna, of any kind, may be erected anywhere on the Community without written approval of the Board of Directors or the ACC. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Community, including a Lot. DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association authorized by the FCC, both as may be amended from time to time. Such antennas as are permitted hereunder shall be screened from view from the street, and shall be installed at the rear of the home when feasible. Except as provided by this Section, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Community, whether attached to a home or structure or otherwise; provided, however, that the Declarant and the Association shall have the right to erect, construct and maintain such devices.

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

10.13. Drainage and Erosion Control. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant of a Lot may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual

easement across all Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Declarant or ACC of plans and specifications for the prevention and control of such erosion or siltation. The Declarant or ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, and requiring landscaping as provided for herein.

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

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

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

10.17. Fences. No fence or fencing-type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the ACC. Except as may be approved by the ACC, all fencing visible from the road, whether from the front, side or rear yard, shall be constructed of wood or vinyl having similar architectural appeal of wood. The ACC may issue additional guidelines detailing acceptable fence styles, colors or specifications.

10.18. Air Conditioning Units. No window air conditioning unit may be located in any part of any dwelling or accessory structure which is visible from any street or other Lot, and all exterior compressor units shall be ground mounted in the rear or along the side of a residence constructed upon a Lot. Compressor units visible from the road shall be reasonable concealed with appropriate shrubbery and/or landscaping.

10.19. Lighting. Except for seasonal decorative lights (which shall be permitted to remain attached to the dwelling for a reasonable length of time as determined by the ACC in its discretion) and outside light fixtures attached to a dwelling, provided such lights are not spotlights whose beam is directed toward another dwelling, all exterior lights must be approved by the ACC.

10.20. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flag posts, flags that cannot be reasonable attached to the dwelling, and similar items must be approved by the ACC.

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

10.22. Swimming Pools and Outdoor Spas. Above ground swimming pools shall not be erected, constructed, or installed on any Lot. No in ground swimming pools or outdoor spas on other Lots may be installed without the prior written approval of the ACC.

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

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

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

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

10.27. New Construction Requirements. All initial construction of dwellings and related improvements, landscaping and grading on Lots shall be subject to review and approval of the ACC pursuant to Article 9 hereof. The builder of the dwelling on each Lot shall be responsible for implementation of, and conformance with all requirements of the applicable county and/or municipal soil erosion control ordinances during construction of the dwelling and other improvements on the Lot, and until conveyance of the Lot to a purchaser. The builder shall seed with a permanent vegetative cover all earth disturbed by the builder's construction activities, except that the builder shall sod all yards of Lots fronting on streets. All dwellings or structures constructed or erected on a Lot must be completed within one year of commencement thereof. Except with approval of the ACC, all Lots shall have sidewalks where the Lots adjoin any street in the Community. All construction on Lots also must conform to the requirements of Article IX hereof. Requests to the ACC for approval of construction of dwellings and related improvements on Lots shall include exterior elevations, exterior colors and materials, and site placement for the Lot.

10.28. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and bicycles may be kept on the patio or deck serving the Lot. No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than an approved swimming pool or an apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee.

10.29. Miscellaneous Fixtures. Unless otherwise approved in writing by the Board or the Architectural Control Committee, no awnings, shades or window boxes shall be attached to or hung or used on the exterior of any window or door or dwelling on a Lot. No foil or other reflective material shall be used on any windows or sunscreens, blinds, shades or for any other purpose. No window mounted heating, air-conditioning or fan units are permitted. Outside clotheslines or other outside facilities for drying or airing clothes also are specifically prohibited and shall not be erected, placed or maintained upon any Lot or parcel of land, nor shall any clothing, rugs or other items be hung on any railing, fence, hedge or wall.

11. LEASING.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and By-Laws, in order to enforce the provisions of this Paragraph.

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

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

a) General. Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing. The Board shall maintain in its files and, upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than six (6) months; provided, however, that the Board shall have the power to allow leases for an initial term of less than six (6) months, on such terms and conditions as the Board may establish, upon a showing by the Owner that such a lease is required to avoid undue hardship to the Owner. Within seven (7) days after executing a lease agreement for the lease of a Lot, the Lot Owner shall provide the Board with a copy of the lease (excluding confidential terms relating to financial obligations under the lease) and the name of the lessee and the names of all other people to occupy the Lot. The Lot Owner must provide the lessee copies of the Declaration, By-Laws, and the rules and regulations.

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

i) Compliance With Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and

rules and regulations adopted pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of such violation shall be given to the Owner and the lessee, and such fine may be first be assessed against the lessee in accordance with Article V, Section 2 of the By-Laws. If the fine is assessed against the lessee and is not paid by the lessee within the time period set by the Board, the Owner 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 Lot. Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specifically assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

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

iii) Liability for Assessments. When a Lot Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner 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 with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under Article 7 herein as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

11.3. Applicability of this Article 11. Leases existing on the date this Declaration is recorded in the Gwinnett County land records shall not be subject to the terms of subparagraph (b) above. Such leases may continue in accordance with the terms of the First Restated Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Paragraph. Any Owner of a Lot which is leased on the Effective Date hereof shall place on file with the Board a copy of the lease agreement in effect within thirty (30) days of the Effective Date hereof. This Paragraph 11 shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Lot who becomes the Owner

of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

12. SALE OF LOTS.

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

13. MAINTENANCE RESPONSIBILITY.

13.1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement subject to any insurance then in effect, of all landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve more than one (1) Lot, whether located within or without the Lot's boundaries to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies. Upon Board resolution and approval of a Majority of the members present or represented by proxy at a duly constituted meeting of the members, the Association may assume responsibility for providing additional exterior maintenance upon Lot improvements and/or responsibility for maintenance of landscaping and walkways within the boundaries of Lots. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would benefit all Owners. The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

13.2. Owner's Responsibility. Except as provided in subparagraph (a) above, all maintenance of the Lot shall be the responsibility of the Owner thereof and such Owner is required to keep in good condition and repair all fencing and landscaping located on such Lot, including but not limited to, the seeding, watering and mowing of all lawns (so that grass does not grow the sidewalk abutting such Lot), the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Lot, whether located within or without a Lot's boundaries (including all gas, electricity, water, sewer and air conditioning pipes, lines, ducts, conduits and other apparatus serving only the Lot). Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Any maintenance which involves an exterior change, including, without limitation, repainting of the exterior of improvements in a different color, shall require prior approval of the Board or its designee pursuant to Article 9 of this Declaration. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Property by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Property) 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. Each Owner shall also be obligated:

- a) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Lots.
- b) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.

c) Not to make any alterations in the portions of the Lot which are to be maintained by the Association or to remove any portion thereof or to make any additions thereto or do anything with respect to the exterior or interior of the Lot which would or might jeopardize or impair the safety or soundness of any Lot without first obtaining the written consent of the Board of Directors of the Association and all Lot Owners and Mortgagees of the Lots affected, nor shall any Lot Owner impair any easement without first obtaining written consent of the Association and of the Lot Owner or Owners and their Mortgagees for whose benefit such easement exists.

d) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Lot Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Lot Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Lot Owner's next chargeable assessment. The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Property or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The Association shall repair incidental damage to any Lot 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.

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

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

14. GENERAL PROVISIONS.

14.1. Management. The Board, in its discretion, may, but shall not be required to, from time to time, retain the services of a professional home owner's association management company or firm to assist in, among other things, the management of the Association's operations, collection of dues or assessments and enforcement of covenants compliance

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

14.3. Dispute Resolution. Any Lot Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any officer or director, or the property manager of the Association. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing.

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

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

14.6. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws, 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.

15. EMINENT DOMAIN.

Whenever all or any part of the Common Property shall be taken or conveyed in lieu of or under threat of condemnation by any authority having power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five (75%) percent of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of Paragraph 9, above, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

16. EASEMENTS.

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

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

16.2.1. the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his or her family, tenants, guests, and invitees;

16.2.2. the right of the Association to suspend the voting rights of an Owner and the right of an Owner to use the recreational facilities in the Property for any period during which any assessment against his or her Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, By-Laws, or rules and regulations;

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

16.2.4. the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association. Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the Occupants of his or her Lot, if leased.

16.2.5. the right of the Association to restrict ATV, motorized vehicles, golf carts, or tractors, to enter upon such easements.

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

16.4. Easements for Access to George Pierce Park. All Lot Owners and the Association shall have easements to ingress and egress George Pierce Park as recorded in Gwinnett County records. No fences or permanent structures shall be built across said easements. Additionally, no ATV, motorized vehicles, golf carts, or tractors, shall be permitted upon any such easement.

16.5. Easement for Entry. The Association shall have an easement to enter onto any Lot for emergency, security and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board.

17. RULE MAKING AND ENFORCEMENT.

17.1. Authority and Enforcement. The Property shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and the Common Property; provided, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations. The Board shall have the power to impose reasonable monetary fines, which shall constitute a lien on the Permanent Member's Lot and to suspend the use and voting privileges of Permanent Members. In addition, the Board of Directors shall have the power to impose reasonable monetary fines and suspend or revoke the membership of a Voluntary Member for a violation of any duty imposed under the Declaration, the Bylaws, or any Rule or

Regulation duly adopted hereunder. Provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. In the event that any Occupant of a Lot violates the Declaration, Bylaws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and the Occupant, and the fine may first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Lot Owner shall pay the fine upon notice from the Association. The fine shall be an assessment and a lien against a Permanent Full or Permanent Civic Member's Lot until paid. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

17.2. Fining and Suspension Procedure. The Board shall not impose a fine, suspend a Permanent Member's, Civic Member's or Voluntary Member's right to use the Common Property, or suspend a Permanent Member's, Civic Member's or Voluntary Member's right to vote (unless a Permanent, Civic or Voluntary Member 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 such suspensions shall be automatic) unless and until notice of the violation is given as provided in subsection 2(a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection 2(b) below.

a) Notice. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall serve the violator with written notice sent certified mail, return receipt requested, which shall state:

i) the nature of the alleged violation;

ii) the proposed sanction to be imposed;

iii) a statement that the violator may challenge the fact of the occurrence of a violation, the proposed sanction, or both, by written challenge and written request for a hearing before the Board, which request must be received by the Board within twenty (20) days of the date of the notice;

iv) the name, address, and telephone number of a person to contact to challenge the proposed action. If a timely challenge is made and the violation is cured within twenty (20) days of the date of the notice, the Board, in its discretion, may, but is not obligated to, waive any sanction or portion thereof. 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 the alleged violator timely challenges the proposed action, a hearing before the Board shall be held in executive session affording the violator a reasonable opportunity to be heard. The hearing shall be set at a reasonable time and date by the Board, and notice of the time, date (which shall be not less than ten (10) nor more than fifteen (15) days from the giving of notice without the consent of the violator), and place of the hearing and an invitation to attend the hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator. The minutes of the meeting shall contain a written statement of the results of the hearing. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

17.3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through 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 reasonable attorney's fees actually incurred. The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Lot Owner. Except as otherwise specifically provided in this Declaration, and except in emergency situations or cases of repeated violations, the Board shall deliver or send by certified mail written notice to the violating Owner or Occupant at least thirty (30) days before exercising self-help powers hereunder.

18. AMENDMENTS.

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

records. In the event it is deemed necessary to obtain the vote of an Eligible Mortgage Holder, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested. Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"). Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

19. SEVERABILITY.

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

20. DURATION.

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

IN WITNESS WHEREOF, the undersigned officer of Developer hereby certifies that the above amendment to the Protective Covenants was duly approved by the Architectural Control Committee and adopted by the Developer. This _____ day of _____, 20_____ .

RUBY-FORREST, LTD., a Georgia Corporation

By: _____ (SEAL)
Keith R. Breedlove, President

President

Sworn and subscribed before me
this _____ day of _____, 20____

Notary Public
My Commission Expires: _____

[NOTARY SEAL]

NEED LEGAL DESCRIPTION

EXHIBIT "A"

Exhibit "B"

STATE OF GEORGIA
COUNTY OF GWINNETT

**Clerk: Please cross-reference to Deed Book _____,
Page _____ Gwinnett County, Georgia records
Deed Book _____, page _____, aforesaid records.
Reference Owner's Name(s) and Address:**

**CONSENT FORM FOR PERMANENT, MANDATORY FULL MEMBERSHIP IN RUBY FOREST HOMEOWNERS'
ASSOCIATION, INC. AS DEFINED BY THE FIRST AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR RUBY FOREST**

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is the record owner and holder of title in fee simple to a Lot within Ruby Forest subdivision in Gwinnett County, Georgia, located at the address described below, and more particularly shown as Lot _____ on the plat of survey for Ruby Forest subdivision recorded in Plat Book _____, Page _____, Gwinnett County, Georgia records (hereinafter "Owner's Property"); and

WHEREAS, Owner desires to submit Owner's Property to Permanent Membership, as defined in Articles 2, 5 and 7 of the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ruby Forest ("Declaration");

NOW, THEREFORE, Owner does hereby consent, on behalf of Owner, Owner's successors, heirs, and assigns, that from and after the date of this Consent, Owner's Property shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Permanent Member of the Association (as defined in Articles 2, 5 and 7 of the Declaration), all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to Permanent Membership in the Association, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with Article 7 of the Declaration. Owner also hereby consents to the amendments to the Association's Bylaws and Articles of Incorporation submitted with the Declaration.

IN WITNESS WHEREOF, Owner does hereby execute this Consent under seal this _____ day of _____, 20 _____.

OWNER(S): _____
Print Name(s):

Signed, sealed and delivered this
_____ day of _____, 20_____
in the presence of:

Signature

Witness

Signature

Notary Public
[NOTARY SEAL]

**Consented to by:
RUBY FOREST HOMEOWNERS' ASSOCIATION, INC.**

By: _____
President

Signed, sealed, and delivered this _____ day
of _____, 2000 in the presence of:

Witness

Notary Public
[NOTARY SEAL]

Exhibit "B"

STATE OF GEORGIA
COUNTY OF GWINNETT

**Clerk: Please cross-reference to Deed Book _____,
Page _____ Gwinnett County, Georgia records
Deed Book _____, page _____, aforesaid records.**

Reference Owner's Name(s) and Address: _____

**CONSENT FORM FOR PERMANENT, MANDATORY CIVIC MEMBERSHIP IN RUBY FOREST
HOMEOWNERS' ASSOCIATION, INC. AS DEFINED BY THE FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RUBY FOREST**

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is the record owner and holder of title in fee simple to a Lot within Ruby Forest subdivision in Gwinnett County, Georgia, located at the address described below, and more particularly shown as Lot _____ on the plat of survey for Ruby Forest subdivision recorded in Plat Book _____, Page _____, Gwinnett County, Georgia records (hereinafter "Owner's Property"); and

WHEREAS, Owner desires to submit Owner's Property to Permanent Civic Membership, as defined in Articles 2, 5 and 7 of the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ruby Forest ("Declaration");

WHEREAS, Owner hereby covenants that all future holders of any interest in Owner's Property shall be subject to Permanent Membership as defined by Paragraphs 2.26, 2.28, 2.29, 2.30 and 5.1(a) of the Declaration.

NOW, THEREFORE, Owner does hereby consent, on behalf of Owner, Owner's successors, heirs, and assigns, that from and after the date of this Consent, Owner's Property shall be owned, held, used and occupied subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Permanent Civic Member of the Association (as defined in Articles 2, 5 and 7). Moreover, Owner hereby consents, on behalf of Owner, Owner's Successors, heirs, and assigns, that upon such time that Owner's property is transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered by a third party, said property shall subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Permanent Full Member of the Association (as defined in Articles 2, 5 and 7 of the Declaration), all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to Permanent Membership in the Association, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with Article 7 of the Declaration. Owner also hereby consents to the amendments to the Association's Bylaws and Articles of Incorporation submitted with the Declaration.

IN WITNESS WHEREOF, Owner does hereby execute this Consent under seal this _____ day of _____, 20 _____.

OWNER(S): _____

Print Name(s):

Signature

Witness

Signature

Signed, sealed and delivered this

_____ day of _____, 20 _____

in the presence of:

Unofficial Witness

Notary Public

[NOTARY SEAL]

**Consented to by:
RUBY FOREST HOMEOWNERS' ASSOCIATION, INC.**

By: _____
President

Signed, sealed, and delivered this _____ day
of _____, 2000 in the presence of:

Witness

Notary Public

[NOTARY SEAL]

Exhibit "B"

**Clerk: Please cross-reference to Deed Book _____,
Page _____ Gwinnett County, Georgia records
Deed Book _____, page _____, aforesaid records.**

STATE OF GEORGIA
COUNTY OF GWINNETT

Reference Owner's Name(s) and Address: _____

**CONSENT FORM FOR PLEDGED PERMANENT, MANDATORY MEMBERSHIP IN RUBY FOREST
HOMEOWNERS' ASSOCIATION, INC. AS DEFINED BY THE FIRST AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RUBY FOREST**

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is the record owner and holder of title in fee simple to a Lot within Ruby Forest subdivision in Gwinnett County, Georgia, located at the address described below, and more particularly shown as Lot _____ on the plat of survey for Ruby Forest subdivision recorded in Plat Book _____, Page _____, Gwinnett County, Georgia records (hereinafter "Owner's Property"); and

WHEREAS, Owner desires to submit future holders of any interest in Owner's Property to Permanent Membership, as defined in Articles 2, 5 and 7 of the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ruby Forest ("Declaration");

WHEREAS, Owner hereby covenants that all future holders of any interest in Owner's Property shall be subject to Permanent Membership as defined by Paragraphs 2.26, 2.28, 2.29, 2.30 and 5.1(a) of the Declaration.

NOW, THEREFORE, In consideration of the benefit to the Property on account of the submission to the Property to the Declaration and to the Georgia Property Owners' Association Act, Sections 44-3-220 et. seq. of the Official Code of Georgia Annotated (1996) and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Owner does hereby consent, on behalf of Owner, Owner's successors, heirs, and assigns, that from and after the date of this Consent, Owner's Property shall be owned, held, used and occupied subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Pledged Mandatory Member of the Association (as defined in Articles 2, 5 and 7). Accordingly, Owner hereby consents, on behalf of Owner, Owner's Successors, heirs, and assigns, that upon such time that Owner's property is transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered by a third party, said property shall subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Permanent Full Member of the Association (as defined in Articles 2, 5 and 7 of the Declaration), all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to Permanent Membership in the Association upon conveyance to a third party, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with Article 7 of the Declaration. Owner also hereby consents to the amendments to the Association's Bylaws and Articles of Incorporation submitted with the Declaration.

IN WITNESS WHEREOF, Owner does hereby execute this Consent under seal this _____ day of _____, 20 _____.

OWNER(S): _____

Print Name(s):

Signature

Witness

Signature

Signed, sealed and delivered this

_____ day of _____, 20 _____

in the presence of:

Unofficial Witness

Notary Public

Notary Public

[NOTARY SEAL]

**Consented to by:
RUBY FOREST HOMEOWNERS' ASSOCIATION, INC.**

By: _____
President

Signed, sealed, and delivered this _____ day
of _____, 2000 in the presence of:

Witness

Notary Public

[NOTARY SEAL]

Return to: Beth S. Hilscher, P.C.
P.O. Box 1267
Suwanee, Georgia 30024

**Clerk: Please cross-reference to Deed Book _____,
Page _____ Gwinnett County, Georgia records
Deed Book _____, page _____, aforesaid records**

Exhibit "B" – Developer

STATE OF GEORGIA
COUNTY OF GWINNETT

Reference Developer's Name: _____

**CONSENT TO THE FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR RUBY FOREST (THE "FIRST AMENDED
DECLARATION"**

The undersigned ("Developer"), as successor-Declarant under the Declaration of Covenants, Conditions, Restrictions and Easements for Ruby Forest ("Original Declaration"), recorded in Deed Book 10626, Page 0231, et seq., Gwinnett County records, and as the record owner of the below described Lots within Ruby Forest subdivision (hereinafter "Developer Lots"), hereby approves and consents to the First Amended Declaration.

Developer further, on behalf of itself, its successors, heirs and assigns, hereby submits the Developer Lots to the Second Declaration and to Permanent Membership in the Association, **commencing on the date that title to each such Lot is conveyed to any person for occupancy of a dwelling on such Lot**, after which time such Lot shall be owned, held, transferred, sold, conveyed, used, or occupied subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration as Amended, as a Permanent Member of the Association, all of which shall run with the title to such Lot.

IN WITNESS WHEREOF, Developer does hereby execute this Consent under seal on the day and year first above written.

Signed, sealed, and delivered
this _____ day of _____, 20____.

Developer: _____

By: _____ (SEAL)

Signature/Title

Witness

Notary Public

[NOTARY SEAL]

Lots Owned: Lot Number Plat Book/Page

**Consented to by:
RUBY FOREST HOMEOWNERS' ASSOCIATION, INC.**

Signed, sealed, and delivered this
_____ day of _____, 20____.

By: _____
President

in the presence of:

Witness

Notary Public

[NOTARY SEAL]

Return to: Beth S. Hilscher, P.C.
P.O. Box 1267
Suwanee, Georgia 30024

**Clerk: Please cross-reference to Deed Book _____,
Page _____ Gwinnett County, Georgia records
Deed Book _____, page _____, aforesaid records**

**Exhibit "B"
Developer**

STATE OF GEORGIA
COUNTY OF GWINNETT

Reference Owner's Name: _____

CONSENT FORM TO THE FIRST AMENDED AND RESTATED

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR RUBY FOREST**

The undersigned, as successor-Declarant under the Declaration of Covenants, Conditions, Restrictions and Easements for Ruby Forest ("Original Declaration") (hereinafter referred to as "Developer"), hereby consents to the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ruby Forest ("Restated Declaration"), but does not submit the lots owned by Developer at Ruby Forest on the date hereof (the "Developer' Property) to Permanent Membership, as defined in Articles 2, 5 and 7 of the Restated Declaration. Developer also hereby consents to the amendments to the Bylaws and Articles of Incorporation for Ruby Forest Homeowners Association, Inc., which were submitted with the Declaration.

IN WITNESS WHEREOF, Developer does hereby execute this Consent under seal this _____ day of _____, 20_____.

Developer: _____
Entity Name

(SEAL)

By: _____
Signature/Title

Signed, sealed, and delivered this _____ day of _____, 20_____.

Witness

Notary Public
[NOTARY SEAL]

Exhibit "C"

STATE OF GEORGIA
COUNTY OF GWINNETT

**Clerk: Please cross-reference to Deed Book _____,
Page _____ Gwinnett County, Georgia records
Deed Book _____, page _____, aforesaid records.
Reference Owner's Name(s) and Address:**

**CONSENT FORM FOR PERMANENT, MANDATORY FULL MEMBERSHIP IN RUBY FOREST HOMEOWNERS'
ASSOCIATION, INC. AS DEFINED BY THE FIRST AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR RUBY FOREST**

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is the record owner and holder of title in fee simple to a Lot within Ruby Forest subdivision in Gwinnett County, Georgia, located at the address described below, and more particularly shown as Lot _____ on the plat of survey for Ruby Forest subdivision recorded in Plat Book _____, Page _____, Gwinnett County, Georgia records (hereinafter "Owner's Property"); and

WHEREAS, Owner desires to submit Owner's Property to Permanent Membership, as defined in Articles 2, 5 and 7 of the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Ruby Forest ("Declaration");

NOW, THEREFORE, Owner does hereby consent, on behalf of Owner, Owner's successors, heirs, and assigns, that from and after the date of this Consent, Owner's Property shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration, as a Permanent Member of the Association (as defined in Articles 2, 5 and 7 of the Declaration), all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to Permanent Membership in the Association, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with Article 7 of the Declaration. Owner also hereby consents to the amendments to the Association's Bylaws and Articles of Incorporation submitted with the Declaration.

IN WITNESS WHEREOF, Owner does hereby execute this Consent under seal this _____ day of _____, 20 _____.

OWNER(S): _____
Print Name(s):

Signed, sealed and delivered this
_____ day of _____, 20_____
in the presence of:

Signature

Witness

Signature

Notary Public
[NOTARY SEAL]

**Consented to by:
RUBY FOREST HOMEOWNERS' ASSOCIATION, INC.**

By: _____
President

Signed, sealed, and delivered this _____ day
of _____, 2000 in the presence of:

Witness

Notary Public
[NOTARY SEAL]

STATE OF GEORGIA
COUNTY OF GWINNETT

"EXHIBIT E"
RUBY FOREST
LEASE AGREEMENT

THIS AGREEMENT is made this day of , 19 , by and between _____ (hereinafter called "Lessor"), and _____ (hereinafter called "Lessee");

WITNESSETH

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

1. PREMISES LEASED, TERM OF LEASE, AND OCCUPANCY. Lessor does hereby rent and lease to Lessee a Lot at _____ in Ruby Forest (hereinafter the "Premises"), for a term of (not less than six (6) months), commencing on _____, 20____ and ending on _____, 20____, midnight.

2. RENT. Lessee covenants and agrees to pay to Lessor at

_____ total rent for the term equal to _____ (\$ _____) Dollars which rent shall be paid in equal monthly installments of _____ (\$ _____) Dollars

promptly on the first day of each rental month in advance during the term of this Lease, without deduction or demand. The rent amount specified above is subject to adjustment during the term of the Lease as described in Paragraphs 3 and 8 below.

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

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

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

- (a) the lease term has expired or this Lease has been terminated by both parties;
- (a) all monies due Lessor by Lessee have been paid; and
- (b) the Premises are not damaged and are left in the same condition as exists at the execution of this Lease, normal wear and tear excepted.

The deposit may be applied by Lessor to satisfy all or part of Lessee's obligations, and such application shall not prevent Lessor from claiming damages in excess of the deposit. Lessee agrees not to apply the deposit to any rent payment and also agrees to pay \$ for re-keying locks if all keys are not returned. Lessee acknowledges receipt of keys. In the event that any part of the deposit has been used by Lessor in accordance with the terms of this Lease or applicable law, Lessee shall upon demand immediately deposit with Lessor a sum equal to the amount so applied by Lessor so that Lessor shall have the full deposit on hand at all times during the Lease term including any extension, renewal or holdover term. In the event of any permitted assignment or sublease of this Lease by Lessee, the deposit shall be deemed to be held by Lessor as a deposit made by Lessee's assignee or sublessee, and

Lessor shall have no further liability to return such deposit to the assignor or sublessor. The foregoing notwithstanding, if Lessor is not a natural person, has used a rental agent, or leases more than ten (10) rental units:

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

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

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

7. COMPLIANCE AND ENFORCEMENT BY ASSOCIATION. Lessee shall comply strictly with the Declaration of Covenants, Conditions and Restrictions for Ruby Forest (hereinafter the "Declaration"), the By-Laws of Ruby Forest Homeowners Association, Inc. (hereinafter the "By-Laws"), and the administrative rules and regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee, or any occupant or person living with Lessee, of any provision of the Declaration, By-Laws, or the rules and regulations adopted thereunder, shall constitute a default under this Lease. In order to enforce the provisions of this Lease, the Association may bring an action against the Lessor or Lessee for damages or injunctive relief or may impose any other sanction authorized by the Declaration or By-Laws or available at law or in equity including, without limitation, all remedies available to a landlord upon breach or default of a lease (including eviction). Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter. Lessor hereby delegates and assigns to the Association, acting through the Board, the power and authority to evict Lessee on behalf of and for the benefit of Lessor, in accordance with the terms hereof. In the event the Association proceeds to evict Lessee, any cost associated with the eviction, including attorney's fees and court costs, shall be specially assessed against the Premises and shall be a personal obligation of Lessor, such being deemed hereby as an expense which benefits the leased Premises and Lessor. Lessee and Lessor hereby represent that Lessee has been given a copy of the Declaration, By-Laws, and rules and regulations of Ruby Forest Homeowners Association, Inc., that Lessee has read them, and that Lessee is bound by them. If Lessee or a person living with Lessee violates the Declaration, By-Laws or a rule or regulation for which a fine is imposed, such fine may be assessed against Lessee; provided, however, if the fine is not paid by Lessee within the time period set by the Board of Directors of the Association, Lessor shall pay the fine upon notice from the Association of Lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Premises.

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

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

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

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

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

12. UTILITIES. All utility bills for services separately metered or billed to the Premises during the lease term shall be paid by

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

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

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

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

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

_____(owner) (agent)
_____(address)

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

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

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

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

22. CONDEMNATION. In the event that the Premises or any part thereof (other than Common Property, the taking of which does not prevent continued occupancy of the Premises) is taken by any authority exercising the power of eminent domain, this Lease shall terminate as of the date possession

shall be taken by the condemnor. Lessee waives all claims against Lessor or any condemning authority by reason of the complete or partial taking of the Premises, and shall not be entitled to receive any part of any award which Lessor may receive, hereby quitclaiming all interest therein to Lessor.

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

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

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

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

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

[OPTIONAL]

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

29. SPECIAL STIPULATIONS.

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

LESSOR: _____
(Signature)

Name: _____
(Please Print)

LESSEE: _____
(Signature)

Name: _____
(Please Print)