

**DECLARATION OF ADDITIONAL PROTECTIVE COVENANTS  
AND PERMANENT MEMBERSHIP FOR FARBROOK SUBDIVISION**

WHEREAS, Lot Owners at Farmbrook Subdivision in Cobb County, Georgia, who have executed this Declaration, are the Owners of that certain real property described in signature page(s) affixed hereto and as are listed in Exhibit Exhibit "A" attached hereto and incorporated herein by this reference and desire to subject their Lot and the Property to the terms and provisions of this Declaration of Additional Protective Covenants and Permanent Membership for Farmbrook Subdivision ("Declaration"), and do hereby subject their Lot and the Property to continuing Membership in the Farmbrooke Village Recreation Association, Inc. ("Association") and authorize and direct the Board of Directors to subject the Common Property, as described in Exhibit "B," to the terms and provisions of this Declaration; and

WHEREAS, the undersigned officers of the Association desire to approve this Declaration and Lot Owners' membership in the Association on behalf of the Association; and

WHEREAS, the Lot Owners who have executed this Declaration do hereby consent, on behalf of such Owner, Owner's successors, successors-in-title, heirs, legal representatives, and assigns, that such Owner's Lot 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 this Declaration, as a Member (as defined in the Declaration) of the Association (with the classification set forth on the signatory pages attached hereto), all of which shall run with the title to Owner's Lot and shall be binding upon all persons having any right, title, or interest in Owner's Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Each Owner understands and acknowledges that, by submitting Owner's Lot to Membership in the Association, each Owner is hereby subjecting Owner's Lot to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with the Declaration. Each Owner does further consent to the submission of the Common Property (as defined in the Declaration) to this Declaration; and

WHEREAS, these preambles have been incorporated into the Declaration pursuant to Paragraph 11 of the Declaration.

NOW, THEREFORE, the undersigned officers of the Association, and all Lot Owners who have executed this Declaration, hereby declare that all of the Property described herein and in Exhibit "A" and Exhibit "B" submitted hereto shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with, the Property, and be binding on all parties having any right, title or interest in the Property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each Owner of any portion of the Property, his heirs, grantees, distributees, successors, successors-in-title and assigns and to the benefit of the Association:

-----[SPACE RESERVED FOR RECORDING DATA]-----

Return to: Weissman, Nowack, Curry & Wilco, P.C.  
One Alliance Center, 4th Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
Attention: Ellen J. Fleming, Esq.

**Instructions to Clerk: (1) Cross Reference to Deed Books set forth below;  
(2) Index each signatory in Grantor Index; (3) Index Farmbrooke  
Village Recreation Association, Inc. in Grantor and Grantee Indexes.  
The Common Property (Exhibit "B") and all lots are located in  
Land Lots 207, 208, 209 and 225, 16th District, 2nd Section**

**STATE OF GEORGIA  
COUNTY OF COBB**

**Cross Reference: Deed Book: 3516  
Page: 55  
Deed Book: 3993  
Page: 243  
Cross Reference: Plat Book: 90  
Page: 47  
Plat Book: 90  
Page: 89  
Plat Book: 95  
Page: 67  
Plat Book: 97  
Page: 23  
Plat Book: 97  
Page: 67**

**DECLARATION OF ADDITIONAL PROTECTIVE COVENANTS  
AND PERMANENT MEMBERSHIP FOR FARBROOK SUBDIVISION**

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**THIS DECLARATION SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. §44-3-220, ET SEQ. CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/CHARGES DUE ON LOTS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS ON LOTS, PURSUANT TO THE PROVISIONS HEREOF.**

**TABLE OF CONTENTS**

1. NAME..... 1

2. DEFINITIONS ..... 1

3. LOCATION, PROPERTY DESCRIPTION, AND PLATS ..... 4

4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS ..... 4

    (a) Effective Date ..... 4

    (b) Membership and Non-Membership (User) Categories ..... 5

    (c) Recreational Facilities ..... 5

    (d) General Provisions..... 5

    (e) Voting ..... 6

5. ASSOCIATION RIGHTS AND RESTRICTIONS ..... 6

6. ASSESSMENTS ..... 7

    (a) General ..... 7

    (b) Full and Civic Members: Creation of the Lien and Personal  
        Obligation for Assessments ..... 7

    (c) Delinquent Assessments as to all Members..... 8

    (d) Computation of Operating Budget and Assessment ..... 9

    (e) Special Assessments ..... 10

    (f) Capital Budget and Reserve Contribution ..... 10

    (g) Statement of Account ..... 10

    (h) Initiation/Capital Fund Fee ..... 10

7. ARCHITECTURAL CONTROLS ..... 10

8. USE RESTRICTIONS. .... 13

9. MAINTENANCE ..... 21

10. GENERAL PROVISIONS ..... 21

    (a) Security ..... 21

    (b) Submission of Common Property ..... 21

    (c) Indemnification..... 21

    (d) No Discrimination ..... 22

    (e) Implied Rights ..... 22

    (f) Electronic Records, Notices and Signature ..... 22

    (g) Seasonal Users ..... 22

11. AMENDMENTS..... 22

**Table of Contents (Continued)**

12. INSURANCE ..... 23

13. REPAIR AND RECONSTRUCTION ..... 23

    (a) Cost Estimates ..... 23

    (b) Source and Allocation of Proceeds ..... 23

    (c) Plans and Specifications ..... 24

    (d) Construction Fund ..... 24

14. ENFORCEMENT ..... 24

    (a) Authority and Enforcement ..... 24

    (b) Additional Enforcement Rights ..... 24

15. MORTGAGEE'S RIGHTS ..... 25

    (a) Mortgagee Approval of Actions ..... 25

    (b) Mortgagee Assessments Upon Foreclosure of Member Lot..... 25

    (c) Mortgage Notices..... 26

16. SEVERABILITY..... 26

17. DURATION..... 26

18. PREPARER ..... 26

**- LIST OF EXHIBITS -**

LIST OF SUBMITTED LOTS ..... "A"

DESCRIPTION OF COMMON PROPERTY ..... "B"

CONSENT FORM (SAMPLE) ..... "C"

**DECLARATION OF ADDITIONAL PROTECTIVE COVENANTS  
AND PERMANENT MEMBERSHIP FOR FARMBROOK SUBDIVISION**

1. NAME.

The name of the Property is Farmbrook Subdivision (hereinafter sometimes called "Farmbrook"), 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. (Michie 1982).

2. DEFINITIONS.

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

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

(b) Additional Property means all Lots shown on the Farmbrook subdivision plats which have not submitted to the terms and provisions of this Declaration at the time of initial recording of this Declaration. Such Lots, upon future execution and recording of a consent by the Lot Owner in accordance with the terms of this Declaration, shall become a portion of the Property.

(c) Architectural Control Committee or ACC shall mean and refer to members of the Committee as appointed annually by the Board of Directors in accordance with the By-Laws of the Association established to exercise the architectural review powers set forth in Paragraph 7 hereof.

(d) Articles or Articles of Incorporation mean the Articles of Incorporation of Farmbrooke Village Recreation Association, Inc., filed with the Secretary of State of the State of Georgia.

(e) Associate User means a Person who owns residential land and/or resides in an Off-Premises Subdivision.

(f) Association shall mean the Farmbrooke Village Recreation Association, Inc., a Georgia non-profit corporation, its successors and assigns.

(g) Association Legal Instruments means this Declaration and all exhibits hereto, including the By-Laws, the Articles of Incorporation, the Farmbrook plats, and any design standards and rules and regulations of the Association, all as may be supplemented or amended from time to time.

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

(i) By-Laws shall mean the Amended and Restated By-Laws of Farmbrooke Village Recreation Association, Inc.

(j) Civic Member means a Lot Owner whose Lot has been subjected to Permanent Membership in the Association by signature hereto or by written consent recorded in the Cobb County, Georgia land records, as provided in this Declaration, and which Lot therefore is a portion of the Property.

(k) Common Expenses means the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, insuring, managing and operating the Common Property and otherwise for the benefit of the Association.

(l) Common Property means any and all real and personal property and easements and other interests, together with the facilities and improvements located on the Property, now or in the future owned, maintained, or operated by the Association, or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Members, including, but not limited to entry features, tennis courts, swimming pool and facilities, shrubbery and landscaping associated with such areas.

(m) 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.

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

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

(p) Enrollment Period means the period of time during which Owners may submit their Lots to the terms of this Declaration without payment of an initiation fee as is further defined in Paragraph 4 hereof.

(q) Farmbrook Plats means the final Plats for Farmbrook Subdivision as recorded in the Cobb County Land Records: Unit No. 1 – Plat Book 90, Page 47 recorded March 8, 1984, revised in Plat Book 90, Page 89 and recorded on March 29, 1984, and further revised in Plat Book 95, Page 67 and recorded on October 9, 1984; Unit Two – Plat Book 97, Page 23 recorded on December 12, 1984 and revised in Plat Book 97, Page 67 recorded on January 7, 1985.

(r) Farmbrook Subdivision means all lots shown on the Farmbrook Plats.

(s) Full Member means a Lot Owner whose Lot has been subjected to Permanent Membership in the Association by signatures hereto or by written consent recorded in the Cobb County, Georgia land records, as provided in this Declaration, and which Lot is therefore a portion of the Property.

(t) Lot means a portion of the Property or Additional 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 the Additional Property, or amendments or supplements thereto, recorded in Cobb County, Georgia land records.

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

(v) Member means the Full and Civic Members of the Association.

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

(x) Mortgagee or Mortgage Holder means the holder of a Mortgage.

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

(z) Off-Premises Subdivision and Off-Premises Subdivision Lot mean any residential property located other than within the Farmbrook Subdivision.

(aa) Owner means and refers to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Farmbrook Subdivision, but shall not include any person(s) or entities holding an interest in a Lot merely as security for the performance or satisfaction of any obligation.

(bb) 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 submission of the Lot to Permanent Membership in the Association by execution of a written Consent as provided herein and recorded in the Cobb County, Georgia records which submits said Property as either a Full or Civic Member of the Association.

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

(dd) Property means and refers to that certain real property and interests therein described in Exhibits "A" and "B" attached hereto and incorporated herein which Lots are submitted to the Act and the provisions of this Declaration after the recording of this Declaration on the Effective Date defined herein being the Member Lots and Common Property, and any portion of the Additional Property as later submitted. The Property includes Common Property. 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., as may be amended.

(ee) Seasonal User means a non-member who owns a Lot and resides within the Farmbrook Subdivision. Seasonal use of the recreational facilities is contingent upon payment of the dues established by the Board for the use of the recreational facilities.

(ff) Structure means any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by the way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; any excavation, grading, fill ditch, diversion dam, or other thing, object, or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and any change in grade at any point on a Lot of more than six (6) inches.

### 3. LOCATION, PROPERTY DESCRIPTION, AND PLATS.

The Property subject to this Declaration and the Act is located in Land Lots 207, 208, 209 and 225 of the 16th District, 2nd Section of Cobb County, Georgia, being more particularly described in the signatory portion of this Declaration and in Exhibit "B" 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 90, Page 47; Plat Book 90, Page 89; Plat Book 95, Page 67; Plat Book 97, Page 23; and Plat Book 97, Page 67 of the Cobb County, Georgia records (collectively the "Plats"). For purposes of property description and submission of the Owner Lots set forth herein only, the Farmbrook Plats are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

### 4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

(a) Effective Date. This Declaration shall not be effective, whether or not it is recorded, until and unless: (a) at least seventy-two (72) Owners have executed one or more written consents on or before 30 April , 2005 (the "Enrollment Period"), which consents are substantially in the form of the Consent attached hereto as Exhibit "C" and incorporated herein by this reference, (b) this Declaration and such Consents have been recorded in the Cobb County, Georgia land records, which shall be no later than ninety (90) days after the end of the Enrollment Period, and (c) two (2) Association officers have executed the final page hereof certifying that the minimum number of required Consents have been obtained. Any reduction in membership or error in the recording of this Declaration, for any reason whatsoever, shall not effect the validity of this Declaration. Upgrading (converting) of membership classification (other than as set forth in 4(b) below) and the addition of new Members may be accomplished by the recording of a consent form at any time and from time to time subsequent to the recording of this Declaration, subject to the terms of this Declaration, provided, the Board shall have the discretion to accept such additional consent forms, if at all, on such terms and form as they determine in their discretion and such consent forms shall be valid only if executed by at least one officer of the Association and recorded by or on behalf of the Association. A sample consent form (which may

be varied by the Association) is attached hereto as Exhibit "C" and incorporated herein by this reference.

(b) Membership and Non-Membership (User) Categories.

(i) Full Member. Each Person who is the record owner of a fee or undivided fee interest in any Lot, and whose Lot is submitted to Full Membership in the Association by execution hereof or by a consent form (as set forth above) recorded in the Cobb County, Georgia land records, shall be a Full Member of the Association and shall be entitled to vote as set forth herein and in the By-Laws of the Association. Full Membership shall be appurtenant to and may not be separated from ownership of any such Member Lot.

(ii) Civic Member. Each Person who is the record owner of a fee or undivided fee interest in any Lot, and whose Lot is submitted to Civic Membership in the Association by execution hereof or by a consent form (as set forth above) recorded in the Cobb County, Georgia land records, shall be a Civic Member of the Association and shall be entitled to vote on matters as set forth herein and in the By-Laws. Civic Membership shall be appurtenant to and may not be separated from ownership of any such Member Lot.

A Civic Member shall have the right, but not the obligation, to convert to Full Membership in the manner described in subsection (a) above. A Civic Member who converts to Full Membership shall not be subject to payment of an initiation fee.

**NOTICE TO CIVIC MEMBERS: UPON CONVEYANCE OR TRANSFER (EXCEPT BY DEED TO SECURE DEBT) OF A LOT WHOSE OWNER HAS EXECUTED THIS DECLARATION SUBJECTING SUCH LOT TO CIVIC MEMBERSHIP, SUCH LOT SHALL AUTOMATICALLY CONVERT, AT THE TIME OF SUCH CONVEYANCE OR TRANSFER, TO FULL MEMBERSHIP AND SHALL BE SUBJECT TO THE RIGHTS, DUTIES AND OBLIGATIONS OF FULL MEMBERSHIP, BUT SHALL NOT BE SUBJECT TO AN INITIATION FEE. THIS DECLARATION SHALL SERVE AS RECORD NOTICE OF SUCH CONVERSION FROM CIVIC TO FULL MEMBERSHIP AND NO FURTHER NOTICE SHALL BE REQUIRED.**

(iii) Seasonal User. Yearly use passes also may be offered in the discretion of the Board on a voluntary basis for Persons whose Lots have not been submitted to Permanent Membership in the Association (being Seasonal Users). Seasonal User use passes shall be contingent upon payment of dues in an amount established by the Board and compliance with the Declaration, By-Laws and rules and regulations of the Association. Seasonal Use may be regulated, limited or discontinued by the Association in its discretion. Seasonal Users are not Members and shall not be entitled to vote on any matter.

(iv) Associate User. Any Person who owns a lot outside of the Farmbrook Subdivision may be offered yearly use passes, in the discretion of the Board. Associate User use passes shall be contingent upon payment of dues in an amount established by the Board and

compliance with the Declaration, By-Laws and rules and regulations of the Association. Associate User use may be regulated, limited or discontinued by the Association in its discretion. Associate Users are not members and shall not be entitled to vote on any matter.

(c) Recreational Facilities. Full Members shall be entitled to the use of all Association recreational facilities including the swimming pool, tennis courts and related facilities, subject to this Declaration, the By-Laws and the rules and regulations of the Association. Civic Members shall be entitled to attend Board designated community-wide social functions. Civic Members shall have no rights of use of the swimming pool and related facilities, nor the tennis courts and related facilities, except as specifically provided by the Board. The Board shall establish, in its discretion, use privileges available to Associate Users and Seasonal Users.

(d) General Provisions. Persons who reside with the Member(s) have the same privileges to use the Common Property of the Association as the Member and shall be subject to all restrictions governing the Common Property.

The definition of Member is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. There shall be no 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 By-Laws. Any rights and privileges of membership, including the right to vote and to hold office, may be exercised by Full Members and Civic Members or their spouses, but in no event shall more than one (1) vote be cast nor office held for each such Full or Civic Member Lot owned.

(e) Voting. Full Members and Civic Members shall be entitled to one (1) equal vote for each Member Lot owned. When more than one (1) Person holds an ownership interest in any such Member Lot, the vote for such Member Lot shall be exercised as those Owners determine among themselves and/or advise the Secretary prior to any meeting. In the absence of such advice, the Member Lot's vote or shall be suspended in the event more than one (1) Person seeks to exercise it. Associate Users and Seasonal Users shall not be entitled to vote on any matter.

(f) Those persons who were members of the Association prior to the passage of this Declaration and who have not become Permanent Members during the Enrollment Period shall continue to be members of the Association with the rights, duties and privileges as existed prior to the passage of the Amended and Restated By-Laws and shall not be subject to this Declaration, provided that subsequent to the passage of the Amended and Restated By-Laws, such individuals' voting rights shall be limited to the By-Laws, and provided further, however, the membership and any rights, duties and privileges shall, in any event, terminate as of December 31, 2004.

## 5. ASSOCIATION RIGHTS AND RESTRICTIONS.

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

(a) to make and to enforce reasonable rules and regulations governing the use of the Common Property in accordance with this Declaration and the By-Laws.

(b) to enforce the provisions of this Declaration, the By-Laws and any rules and regulations provisions concerning the Common Property by imposing reasonable monetary fines, by using self-help (including the right to tow) and suspending use and voting privileges and services paid for as a Common Expense, as provided herein and in Section 44-3-223 of the Act and by any other legal or equitable means. Any fines imposed shall be considered an assessment against the Member Lot.

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

(d) To determine, in its discretion, the terms of use of the Common Property by Associate Users, Seasonal Users and Civic Members.

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

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

(g) to represent the Members in dealing with governmental entities as to the Common Property and other matters, including zoning and land use disputes;

(h) to acquire, hold and dispose of tangible and intangible personal property and real property.

(i) the Board of Directors shall have the power to assess specially pursuant to this Paragraph and to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

## 6. ASSESSMENTS.

(a) General. The Association shall have the power to levy dues or assessments against all Members as provided herein and in the By-Laws. The dues (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, enforcing this Declaration, 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 Members and Occupants of Member Lots in the Property, as may be more specifically authorized from time to time by the Board. Except as otherwise provided herein, each Full Member Lot is hereby allocated equal liability for Common Expenses with each Full Member Lot, which need not be equal with that of other membership categories. Except as otherwise provided herein, each Civic Member Lot is hereby allocated equal liability for Common Expenses with each Civic Member Lot, which need not be equal with that of other membership categories.

(b) Full and Civic Members: Creation of the Lien and Personal Obligation For Assessments. Each Permanent Member (Full and Civic Members), by execution hereof or 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.

(i) 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 Member Lot and shall be a continuing lien upon the Member Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Member Lot at the time when the assessment fell due. Each Owner of a 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.

(ii) 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 Full or Civic Members upon ten (10) days written notice.

(iii) The lien provided for herein shall have priority as set forth in the Act. The sale or transfer of any Member 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 Member Lot from liability for any assessments thereafter coming due or from the lien thereof.

(c) Delinquent Assessments as to all Members. 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.

(i) If the annual assessments or any part or installment thereof is not paid in full within thirty (30) 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 Associate Users and Seasonal Users) shall accrue from the due date.

(ii) The Association, acting through the Board, may suspend the Member's right to use the Common Property if amounts remain 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. As to Associate Users and Seasonal Users, the Association may additionally revoke and/or suspend such non-member's use of the recreational facilities upon ten (10) days written notice.

(iii) 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.

(iv) No Member may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever.

(d) Computation of Operating Budget and Assessment.

(i) Full and Civic (Permanent) Member Assessment. The annual assessment for Full and Civic Members during fiscal year 2004 (ending December 31, 2004) shall, respectively, be Four Hundred Fifteen and No/100 (\$415.00) Dollars [Full], and One Hundred Eighty-Six and 75/100 (\$186.75) Dollars [Civic] and no further vote shall be required as to such 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 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 as well as amounts to cover other Association responsibilities.

Prior to the beginning of each fiscal year, the Board shall prepare a budget and shall establish the annual dues (assessment) or installments for the coming year. The Board shall cause the budget and notice of the assessment(s) to be delivered to each Member at least thirty (30) days prior to the due date for such assessment, or the first installment thereof. The budget and the assessment shall become effective unless disapproved at a duly called Association annual meeting by a vote of a majority of the total Association Membership; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective.

If the Membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. However, the Board may propose a new or adjusted budget at any time during the year by causing the proposed budget and assessment to be delivered to the Members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the Members, as provided in the By-Laws for special meetings, the new or adjusted budget and dues (assessment) shall take effect without a meeting of the Members.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

The Civic Member annual dues (assessment) is forty-five (45%) percent of the Full Member annual dues (assessment). The Full Member assessment is assessed equally to all Full Members. The Full Member annual assessment is determined by calculating the pro-rata share of the budget for each Full Member after taking into account dues from Civic Members. The Civic Member annual assessment is assessed equally to all Civic Members.

(ii) Associate User and Seasonal User Assessment. The Board also shall establish, in its discretion, the annual dues (assessment) chargeable to Associate Users and Seasonal Users, which shall contribute to the Common Expenses of the Association. The Board shall cause the budget and notice of the dues (assessments) to be levied against each such Person for the following year to be delivered to each such User at least thirty (30) days prior to the due date. Each Associate User and Seasonal User shall be personally liable for all annual assessments, as well as for any Common Expenses occasioned by the conduct of such Person or such Person's guests, tenants or invitees.

(e) Special Assessments. Notwithstanding anything in Paragraph 6(d) to the contrary, in addition to the annual dues (assessment) provided for above, the Board may at any time levy a special assessment for any purpose against all Permanent Members, notice of which shall be sent to such members; provided, however, prior to becoming effective, any special assessment first shall be approved by the affirmative vote of at least two-thirds (2/3) of eligible Permanent Members present or represented by proxy at a duly called meeting, notice of which shall specify that purpose, and/or by ballot or consent specifying that purpose. All special assessments shall be levied in the same manner and percentages as the annual assessment. Alternatively, in the Board's discretion, Civic Members may be excluded from special assessments for items which do involve the recreational facilities on the Property and such Members shall not participate in the vote for such special assessments.

(f) 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.

(g) Statement of Account. Any Member, Mortgage Holder, or a Person having executed a contract for the purchase of a Member Lot, or a lender considering a loan to be secured by a 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 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 Member Lot as of the date specified therein.

(h) Initiation/Capital Fund Fee. Subsequent to the Enrollment Period, the Board may require a non-refundable initiation/capital fund fee in order to become a Permanent Member of up to One Thousand Five Hundred and No/100 Dollars (\$1,500.00), with the specific amount, if any, being in the discretion of the Board.

## 7. ARCHITECTURAL CONTROLS.

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

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

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

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require. The ACC or its designated representative shall be the sole arbiter of such application and may withhold

approval for any reason, including purely aesthetic considerations, and the Association, acting through the Board, shall be entitled to stop any construction which is not in conformance with approved plans. The Board or the ACC may publish written architectural standards for exterior and Common Property alterations or additions, 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 ACC or the Board, subject to this subparagraph (a), may allow such encroachments on the Common Property as it deems acceptable.

If the ACC or its designated representative fails to approve or to disapprove such application within forty-five (45) days after the application and such information as the ACC may reasonably require shall have been submitted, its approval will not be required and this subparagraph will be deemed complied with, unless such structure or improvement otherwise is in violation of the Declaration, the By-Laws, the design standards, the Association's rules and regulations, or applicable zoning ordinances.

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

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

(d) Limitation of Liability. Review and approval of any application pursuant to this Paragraph may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board nor the ACC shall bear any responsibility for ensuring the design, quality,

structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Association, the Board, the ACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design or quality of approved construction on or modifications to any Lot, nor may any action be brought against the Association, the Board, the ACC, or any member thereof, for any such injury, damage or loss.

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

(f) Enforcement. Any construction, alteration or other work done in violation of this Paragraph, the Declaration, the By-Laws, the design standards or any applicable zoning regulations shall be deemed to be nonconforming. Upon written request from the Board, a violating Owner shall, at his or her own cost and expense, remove such nonconforming construction, alteration or other work and restore the property to substantially the same condition as existed prior to such construction, alteration or work. Should the Owner fail to do so, the Board or its designees shall have the right, in addition to all other available remedies, to enter the property, remove the violation and restore the property, or obtain a court order compelling the violating Owner to do so. All costs thereof, including reasonable attorney's fees, may be assessed against such Lot.

In addition to the above, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the ACC. All costs of any such action, including reasonable attorney's fees, may be assessed against such Lot. Furthermore, the Board shall have the authority to record in the Cobb County land records notices of violation of the provisions of this Paragraph.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Property in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remains 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.

(g) Commencement and Completion of Construction. All improvements approved by the ACC hereunder must be commenced within one year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. Additionally, except with written

ACC approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the ACC hereunder shall be completed within 90 days of commencement.

8. USE RESTRICTIONS.

Each Member shall be responsible for ensuring that their family, guests, tenants and Occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association. Furthermore, all Members and Occupants 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 Member's family, guests, tenants or Occupants, the Association may take action under this Declaration against the Member as if the Member committed the violation in conjunction with the Member'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.

(a) Use of Lots.

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

(1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;

(2) the business activity does not involve visitation of the dwelling by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential dwelling without business activity;

(3) the business activity conforms to all zoning requirements for the Property;

(4) the business activity does not increase traffic in the Property in excess of what would normally be expected for residential dwellings in the Property without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(5) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(6) the business activity is consistent with the residential character of the Property

and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as determined in Board's discretion; and

(7) the business activity does not result in a materially greater use of common area facilities or Association services.

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

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

(b) Subdivision of Lots and Outbuildings. No Lot may be subdivided into a smaller Lot and no structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Member or Occupant on any portion of the Property, at any time, either temporarily or permanently, except with written Board approval.

(c) 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 or in the Association's rules and regulations.

With prior written Board approval, and subject to any restrictions imposed by the Board, a Member may reserve portions of the Common Property for use for a period of time as set by the Board. Restrictions may differ based on the classification of membership. Any such Member or Members 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.

Each Member transfers and assigns to any lessee who has exclusive use of the Member's home, for the term of the lease, any and all rights and privileges that the Member has to use the Common Property, including, but not limited to, the use of any and all recreational facilities.

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

- (i) Any screaming, shouting, excessively loud talking, whistling, or playing of music or television either outside of a Lot at any time or within a Lot if such conduct can be heard in the normal course of activities in any other unit(s);
- (ii) Any fighting, raucous behavior or insobriety either outside of a Lot at any time or within a Lot if such conduct can be heard in the normal course of activities in any other Lot(s);
- (iii) The use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either outside of a Lot at any time or within a Lot if such sounds can be heard or vibrations felt in the normal course of activities in any other Lot(s);
- (iv) Any threatening or intimidating conduct towards any resident, guest or pet at the Property;
- (v) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property at the Property or which creates any threat to health or safety of any other resident or pet;
- (vi) Any excessively loud play or playground activities either outside of a Lot at any time or within a Lot if such conduct can be heard in the normal course of activities in any other Lot (s);

- (vii) Any conduct which creates any noxious or offensive odor either outside of a Lot at any time or within a Lot if such odors can be detected in the normal course of activities in any other Lot (s);
- (viii) Any similar action or activity outside of a Lot on the Property, or which occurs inside a Lot but which interferes with the peaceful use and enjoyment of other Lots or the Common Area by any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot; or
- (ix) Any construction or similar activities in a Lot which can be heard in other Lots between the hours of 9:00 p.m. and 7:30 a.m.

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

No Member may use or allow the use of the Lot or the Common Areas in any manner which creates noises between the hours of 11:00 p.m. and 7:30 a.m. which can be heard by persons in another Lot that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of any other Member, members of his or her family, guests, invitees, or Occupants of his or her Lot.

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

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

(e) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Property is prohibited; provided, however, that the display of lawful firearms on the Common Property is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Member's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of

all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1.

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

No Member or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors in unfenced areas. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property without prior written Board approval as provided in Paragraph 7 hereof. Feces left by pets upon the Common Property, on any Lot or in any dwelling, including the pet owner's Lot or dwelling, must be removed promptly by the owner of the pet or the person responsible for the pet.

(g) Garages and Parking. Each dwelling must have a garage of sufficient size to house at least two (2) passenger automobiles. All garages must be substantial and conform architecturally to the dwelling to which they relate. Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. Garages shall be used only for parking motor vehicles, hobbies and storing Owner's household goods.

No recreational vehicles (RV's and motor homes), mobile homes, school buses, trucks or commercial vehicles over one (1) ton capacity, boats or boat trailers shall be kept, stored or parked overnight either on any street or on any Lot, except within enclosed garages or completely screened from view. Notwithstanding the forgoing, passenger automobiles may be parked in driveways, if the number of vehicles owned by the Owner exceeds the capacity of the garage. The foregoing will not be interpreted, construed or applied to prevent the temporary nonrecurrent parking of any vehicle, boat or trailer for a period not to exceed forty-eight hours upon any Lot.

Without prior written Board consent, no vehicles may be parked overnight on the Common Property, except in spaces designated as parking spaces by the Board.

Disabled vehicles are prohibited from being parked on the Property, except in garages. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable.

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.

If any vehicle is parked on any portion of the Property in violation of this subparagraph 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 and/or booting hereunder. 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 or booted in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed or booted 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 or booting activity. The Association's right to tow or boot 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 or boot.

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

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

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

(i) Signs. Except as may be required by legal proceedings, no signs, advertising posters

or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee, except that two (2) professional security signs not to exceed six (6") inches by six (6") inches each in size may be displayed from within a dwelling on a Lot and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed from within a dwelling on a Lot being offered for sale or for lease. Additionally, one (1) "Home Available" sign furnished by the Association may be placed on the Common Property and shall be displayed in accordance with regulations adopted by the Board. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time.

(j) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Property, temporarily or otherwise, except as provided herein. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. The Board may establish regulations regarding placement of trash cans for pick-up.

(k) 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 hereditaments, nor do any act nor allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants.

(l) 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 except within a dwelling. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and similar items may be kept outside of a dwelling.

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

(n) Antennas and Satellite Dishes. No transmission antenna, of any kind, may be erected anywhere on the Property without written approval of the Board of Directors or the Architectural Control Committee. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Property, 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 items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. 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 Property, whether attached to a home or structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

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

(p) Accessory Structures. A detached accessory structure may be placed on a lot to be used for a playhouse, a swimming pool, a tool shed, a mailbox, a doghouse or a garage; provided, however, a garage may also be an attached accessory structure. Such accessory structures shall not exceed sixteen (16) feet in height and shall conform in exterior design and quality to the dwelling on the same lot.

Any detached accessory structure placed on any lot shall be located only behind the dwelling as such dwelling fronts a street within the Farmbrook Subdivision and located within such side and rear set-back lines as may be required by applicable legal requirements and the Farmbrook Plats. As provided in Paragraph 7 hereof, the Architectural Control Committee shall have the right to approve or disapprove the plans and specifications for any accessory structure to be erected on any lot. Construction of an accessory structure shall not be commenced until final plans and specifications have been submitted to and approved in writing by the ACC and unless such plans and specifications also conform with the community-wide standard, this Declaration, and the design standards which may be adopted by the Board or ACC.

(q) Window Air Conditioners. No window air conditioning units shall be installed without prior written approval of the ACC.

(r) Swimming Pools. No above-ground swimming pools shall be erected, constructed or installed on any Lot. Swimming pools must be in ground and approved pursuant to Paragraph 7 hereof.

## 9. MAINTENANCE.

The Association shall maintain, keep in good repair and, in the Board's discretion, improve the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all structures, landscaping, grass areas, paving and other improvements situated on the Common Property.

## 10. GENERAL PROVISIONS.

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Property; however, each Member, for himself or herself and his or her Occupants, 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 or elsewhere. It shall be the responsibility of each Member to protect his or her person and property and all responsibility to provide security shall lie solely with each Member and/or Occupant. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) Submission of Common Property. The Common Property owned by the Association shall be deemed submitted to this Declaration pursuant to execution of this Declaration by the Association.

(c) 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.

(d) 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.

(e) 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.

(f) Electronic Records, Notices and Signatures. Notwithstanding any other portion of this Declaration, records, signatures and notices shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented

electronically. The relevant provisions of the By-Laws of Farmbrooke Village Recreation Association, Inc., shall govern the giving of all notices required by this Declaration.

(g) Associate Users and Seasonal Users are not "lot owners" as defined in the Act.

#### 11. AMENDMENTS.

Except where a higher vote is required for action under any other provisions of this Declaration, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Permanent Members of the Association holding sixty-six and two-thirds (66 2/3%) percent of the total eligible vote thereof; provided, as to any matter which materially alters or increases the assessment obligation of any Permanent Members, then such amendment shall also require the affirmative vote, written consent or any combination thereof of sixty-six and two-thirds (66 2/3%) percent of the total eligible vote of such affected category of 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 Cobb County, Georgia land records.

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

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

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time. The preambles to this Declaration are incorporated herein by this reference.

#### 12. INSURANCE.

(a) The Association's Board or its duly authorized agent shall have the authority to and, if reasonably available, shall obtain insurance for all insurable improvements on the

Common Property. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

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

(c) Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its members.

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

### 13. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Common Property as a result of fire or other casualty, unless eighty (80%) percent of the Permanent Members vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Common Property, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures thereon to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Permanent Members without the necessity of a vote of the Permanent Members or compliance with Paragraph 7 above. If after repair and reconstruction is completed there is a

surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

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

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

#### 14. ENFORCEMENT.

(a) Authority and Enforcement. The Common Property shall be used only for those uses and purposes set out in this Declaration. Copies of all such rules and regulations shall be furnished to all Members and Occupants of Member Lots. 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 Member and Occupant, shall comply with the Declaration, By-Laws 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 Member Lot Owners, to take action to enforce the terms of the Declaration, By-Laws or rules and regulations through any legal or equitable remedy.

The Board shall have the power to impose reasonable fines against Members, which shall, as to a Permanent Member, constitute a lien upon the Member Lot, and to suspend a Member's right to vote or to use the Common Property for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations 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 Member Lot. If any Occupant violates the Declaration, By-Laws or Association rules and a fine is imposed, the fine may be imposed against the Member and/or Occupant. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(b) 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 By-Laws, 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 the By-Laws.

The Association or its duly authorized agent shall have the power to enter 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 By-Laws, or the rules and regulations. All costs of self-help or of otherwise enforcing the Declaration, By-Laws or Association rules, including reasonable attorney's fees, shall be assessed against the violating Member.

Each Member shall be responsible for ensuring that the Member's family, guests, tenants and occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association. In addition to any rights the Association may have against the Member's family, guests, tenants or occupants, the Association may take action under this Declaration against the Member as if the Member committed the violation in conjunction with the Member's family, guests, tenants or occupants.

#### 15. MORTGAGEE'S RIGHTS

(a) Mortgagee Approval of Actions. Unless at least two-thirds (2/3) of either the holders of first Mortgages on Member Lots or the Member Lot Owners give their consent, the Association shall not:

- (i) by act or omission seek to abandon or terminate the Association;
- (ii) change the pro rata interest or obligations of any individual Member Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;
- (iii) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility or public easements or rights-of-way shall not be deemed a transfer within the meaning of this provision); or
- (iv) use hazard insurance proceeds for losses to any portion of the Common Property for other than the repair, replacement, or reconstruction of such portion of the Common Property.

(b) Mortgagee Assessments Upon Foreclosure of Member Lot. Where the Mortgagee holding a first Mortgage of record on a Member Lot or other purchaser of a Member Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all Members, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all

charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

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

(i) any condemnation loss or any casualty loss which affects a material portion of the Common Property or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder;

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

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

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

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

16. 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.

17. DURATION.

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

18. PREPARER

This Declaration was prepared by Ellen J. Fleming, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

IN WITNESS WHEREOF, the Board of Directors and undersigned Owners of Lots as set forth below have approved recording of this Declaration of Additional Protective Covenants and Permanent Membership for Farmbrook Subdivision and the signature pages to follow:

**FARMBROOKE VILLAGE RECREATION  
ASSOCIATION, INC.**

By: \_\_\_\_\_ (Seal)  
Its: President

Signed, sealed, and delivered this  
\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Attest: \_\_\_\_\_ Seal)  
Its: Secretary

\_\_\_\_\_  
Witness

[CORPORATE SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

[NOTARY SEAL]

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[Signatures continue on following page]

[Additional signatory to Declaration]

The undersigned owner(s) is/are the record owner and holder of title in fee simple to a Lot within the Farmbrook Subdivision in Cobb County, Georgia, located at the address described below, and have submitted their Lot as set forth above.

Owner(s) Lot: Lot \_\_\_\_, as located in Land Lot 207 or 208 [*choose one*], 16th District, 2nd Section and as shown on the plat of survey for Farmbrook Subdivision recorded in Plat Book \_\_\_\_, Page \_\_\_\_, Cobb County, Georgia records such plat being incorporated herein by this reference.

Street Address: \_\_\_\_\_  
Kennsaw, Georgia 30144

Owner(s) shall be a \_\_\_\_\_ Member of the Association.  
(*Insert: FULL or CIVIC on above blank*)

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ . \_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Witness \_\_\_\_\_  
Print or Type Full Name of Owner

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ . \_\_\_\_\_  
Signature of Co-Owner

\_\_\_\_\_  
Witness \_\_\_\_\_  
Print or Type Full Name of Co-Owner

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

[Signatures continue on following page]



## EXHIBIT "B"

### [Description of Common Property]

ALL that tract or parcel of land lying and being in Land Lot 208 of the 16th District 2nd Section, Cobb County, Georgia according to plat of survey by J. B. Dixon, registered surveyor, and recorded January 7, 1985 in Plat Book 97, page 67 of the Cobb County records and being more particularly described as follows:

Beginning on the south side of the right-of-way of Farmbrook Trail at the point of beginning located at the northwest corner of Lot 77, Unit II Farmbrook Subdivision; running south 46 degrees 43 minutes 52 seconds east 318± feet to a point at Noonday Creek; thence following the meandering of Noonday Creek southwest 329± feet to a point; thence north 46 degrees 43 minutes 52 seconds west 222± feet to a point; thence north 43 degrees 16 minutes 08 seconds east 315.18 feet along the right-of-way of Farmbrook Trail to the point of beginning.

This property is also known as 588 Farmbrook Trail, Kennesaw, Georgia 30144.

**EXHIBIT "C"**

STATE OF GEORGIA  
COUNTY OF COBB

Index in Grantor Index Owner's Name(s): \_\_\_\_\_  
Index in Grantor and Grantee Index Also Under:  
Farmbrooke Village Recreation Association, Inc.

Cross Reference: Declaration of Additional Protective Covenants and  
Permanent Membership for Farmbrook Subdivision Deed Book \_\_\_\_\_  
Page \_\_\_\_\_

CONSENT FORM TO THE DECLARATION OF ADDITIONAL  
PROTECTIVE COVENANTS AND PERMANENT MEMBERSHIP FOR  
FARMBROOKE VILLAGE RECREATION ASSOCIATION, INC.

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 the Farmbrook Subdivision in Cobb County, Georgia, located at the address described below, and more particularly shown as Lot \_\_\_\_, as located in Land Lot \_\_\_\_, 16th District, 2nd Section, as shown on the plat of survey for Farmbrook Subdivision recorded in Plat Book \_\_\_\_, Page \_\_\_\_, Cobb County, Georgia records (hereinafter "Owner's Property") such plat being incorporated herein by this reference; and

WHEREAS, Owner desires to submit and/or convert Owner's Property to the Declaration of Additional Protective Covenants and Permanent Membership for Farmbrook Subdivision as recorded at Deed Book \_\_\_\_, Page \_\_\_\_ et seq. ("Declaration") as a Permanent Member of the Association, as defined in the Declaration in the category shown below;

NOW, THEREFORE, Owner does hereby consent, on behalf of Owner, Owner's successors, successors-in-title, 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 \_\_\_\_\_ (*Insert: Full or Civic*) Member of the Association, 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 \_\_\_\_\_ (*Insert: Full or Civic*) Membership (as defined in the Declaration) 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 the Declaration.

Owner does further consent to the submission of the Common Property (as defined in the Declaration) to the Declaration.

Signed, sealed and delivered this  
\_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_.

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Print or Type Full Name of Owner(s)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Co-Owner

\_\_\_\_\_  
Notary Public  
[NOTARY SEAL]

\_\_\_\_\_  
Street Address

-----  
*THIS PORTION TO BE COMPLETED BY ASSOCIATION UPON RETURN FROM OWNERS:*

*Signed, sealed, and delivered  
this \_\_\_\_ day of \_\_\_\_, 200\_\_\_\_.*

*Approved by:  
FARMBROOKE VILLAGE RECREATION ASSOCIATION, INC.*

\_\_\_\_\_  
*Witness*

*By: \_\_\_\_\_  
Its: President*

[CORPORATE SEAL]

\_\_\_\_\_  
*Notary Public*  
[NOTARY SEAL]

[For Subsequent Additions and Conversions]