

THE GLENS AT POWERS FERRY HOMEOWNERS ASSOCIATION

COVENANTS, RESTRICTIONS AND BY-LAWS

After recording, please return to:
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DECLARATION OF COVENANTS AND RESTRICTIONS
FOR THE GLENS AT POWERS FERRY SUBDIVISION

THIS DECLARATION ("Declaration"), made as of the 15 day of August, 1995, by PULTE HOME CORPORATION, a Michigan corporation, hereinafter sometimes called the "Declarant."

WITNESSETH

WHEREAS, the Declarant is the Owner of the real property described in Article II hereof and desires to create thereon a residential community with permanent Common Areas and Community Facilities and Easement Areas for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of the Common Areas and Community Facilities and Easement Areas; and to this end, desires to subject the real property described in Article II hereof to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which are for the benefit of said property and the subsequent Owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the Common Areas and Community Facilities and Easement Areas, administering and enforcing the within covenants and restrictions, and collecting and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed THE GLENS AT POWERS FERRY HOMEOWNERS ASSOCIATION, INC. as a nonprofit corporation without capital stock under the laws of the State of Georgia, for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that the real property described in Article II hereof is and shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as the

"Covenants and Restrictions") hereinafter set forth, all of which are declared and agreed to be in aid of a plan for improvement of the Project, and shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, its successors and assigns, and any individual acquiring or owning an interest in the Project and improvements, including, without limitation, any individual, group of individuals, corporation, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of any obligation.

ARTICLE I

Section 1.- Definitions. The following words, when used in this Declaration (including the preamble hereinabove), shall have the following meanings:

(a) "Association" shall mean and refer to THE GLENS AT POWERS FERRY HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation, and its successors and assigns.

(b) "Board of Directors" shall mean duly elected Board of Directors, elected pursuant to the Articles of Incorporation and By-Laws of the Association.

(c) "Common Areas and Community Facilities" shall mean and refer to all real property, if any, whether improved or unimproved, owned or leased by the Association or otherwise available to the Association for the benefit, use and enjoyment of its Members and shall include all improvements located therein or thereon, and all utilities and Easement Areas (to the extent owned by the Association) which serve the Property and are to be maintained by the Association. The Project does not have any amenity or recreation area.

(d) "Declarant" shall mean and refer to the Declarant identified in the preamble to this Declaration and its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purposes of development.

(e) "Easement Areas" shall mean those areas shown as buffer areas, landscape maintenance easements, detention areas, drainage easements, utility easements, undisturbed buffers, and traffic islands on the final subdivision plat(s) for the Project (or phases thereof) to be recorded by Declarant in the real property records of Cobb County, Georgia.

(f) "Member" shall mean and refer to every individual, group of individuals, corporation, trust or other legal entity, or any combination thereof, who holds a Class A or Class B membership in the Association.

(g) "Mortgagee", as used herein, means the holder of any recorded mortgage, or the party secured by or beneficiary of any recorded deed to secure debt, encumbering one or more of the Units, and shall not be limited to Institutional Mortgagees. "Mortgage", as used herein, shall

include a deed to secure debt. "First Mortgage", as used herein, shall mean a Mortgage with priority over all other Mortgages secured by the same property. As used in this Declaration, the term "Institutional Mortgagee" or "Institutional Mortgagee" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States government or of any state or municipal government. As used in this Declaration, the term "Mortgagee" shall include the parties secured by any deed to secure debt or any beneficiary thereof.

(h) "Owner" shall mean and refer to the record owner, whether one or more individuals or entities, of the fee simple title to any Unit situated on the Property, including contract sellers, but excluding those having such interest solely as security for the performance of any obligation.

(i) "Project", as set forth in this Declaration, mean that certain subdivision being developed by the Declarant in Cobb County, Georgia, known as THE GLENS AT POWERS FERRY SUBDIVISION, and located on the Property.

(j) "Property" shall mean and refer to all real property described in Article II, Section 1 hereof, including any Additional Property that may be annexed pursuant to the terms of Article II, Section 2 hereof.

(k) "Unit" shall mean and refer to any lots or portions of the Property on which Declarant intends for there to be construction and occupancy of a residence by a single individual or family.

Whenever in this Declaration any action is required to be taken by a specified percentage of "each class of the then Members" of the Association, then such action shall be required to be taken separately by the specified percentage of the then outstanding Class A Members of the Association and by the specified percentage of the then outstanding Class B Members of the Association. Whenever in this Declaration any action is required to be taken by a specified percentage of the "then Members" of the Association, then such action shall be required to be taken by the specified percentage of the then outstanding cumulative membership of the Association.

ARTICLE II

Section 1. Property Subject to Declaration. The Property which is, and shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the Declaration is located in Cobb County, State of Georgia, and is more particularly described in Exhibit A attached hereto and by reference made a part hereof.

Section 2. Additional Property. So long as there are Class B Members of the Association, additional property may be annexed to the Property, without the consent of the Class A Members of the Association, if any, so long as the additional property is a part of the property described on Exhibit B attached to this Declaration and incorporated herein by this reference (referred to herein as the "Additional Property"). Following the lapse or surrender of the Class B memberships, as provided for in Article III of this Declaration, Additional Property may be annexed to the Property without the consent of the Class A Members of the Association, if any, so long as such Additional Property is part of the property described on Exhibit B attached to this Declaration and said annexation is accomplished within seven (7) years of the date of this Declaration. The scheme of this Declaration shall not, however, be extended to include any such Additional Property until such Additional Property is annexed and subjected to this Declaration as hereinafter set forth.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a supplementary declaration, which supplementary declaration shall extend the scheme of the this Declaration to such annexed Additional Property. Such annexations need not be made by the Declarant; provided, however, that any such annexation accomplished by persons other than the Declarant shall have the consent of the Declarant, which consent shall not be unreasonably withheld or delayed.

Section 3. Georgia Property Owners' Association Act. The Declarant hereby elects that this Declaration and the Project be governed by the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, si ssa.

ARTICLE III Membership

Section 1. Membership- The Association shall have two classes of voting membership, which shall be known as "Class A" and "Class B":

(a) With the exception of the Declarant, every individual, group of individuals, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner or which otherwise becomes subject to the Declaration for assessment by the Association, shall be a Class A Member of the Association; provided, however, that any such individual, group of individuals, corporation, partnership, trust or other legal entity who holds such interest solely as security for the performance of a debt or obligation shall not be a Class A Member solely on account of such interest. Each Class A Member shall be entitled to one (1) vote for each Unit in which such Member holds the interest required for Class A membership, provided that there shall be only one (1) vote for each Unit irrespective of the number of Owners for such Unit.

(b) The Class B Member shall be the Declarant, its nominee or nominees, and shall include every individual, group of individuals, corporation, partnership, trust other legal entity, or any combination thereof, who shall obtain any Class B membership by assignment from the Declarant which specifically assigns the rights of Class B membership. The Class B Member or Members shall have one (1) Class B membership for each Unit in which such Member holds the interest otherwise required for Class A membership. Each Class B Member shall be entitled to three (3) votes for each Class B membership which it holds. The Class B membership shall cease and be converted to Class A membership on the first to happen of the following events:

- (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (ii) on August 1, 2005.

Upon lapse or surrender of any of the Class B memberships as provided for in this Article, the Declarant shall thereafter remain a Class A Member of the Association as to each and every Unit in which the Declarant then holds the interest otherwise required for such Class A membership.

The Members of the Association shall have no preemptive rights, as such Members, to acquire any memberships of the Association that may at any time be issued by the Association except as may be specifically provided in this Article.

ARTICLE IV

Section 1. Member's Right of Enjoyment. Subject to easements and restrictions of record which affect or pertain to the Property and/or the Common Areas and Community Facilities (including the Easement Areas), every Member shall have a right and easement of enjoyment in and to the Common Areas and Community Facilities, if any, and such easement shall be appurtenant to and shall pass with the fee title to every Unit subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, and with the consent of two-thirds (2/3) of each class of the then Members of the Association, voting separately, to borrow money for the purpose of improving the Common Areas and Community Facilities and the Easement Areas in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage any of the Common Areas and Community Facilities; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Property of the Association against Mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration; and

(c) The right of the Association to adopt reasonable rules respecting use of the Common Areas and Community Facilities and to reasonably limit the number of guests of Members who use any Common Areas and Community Facilities which may be developed upon the Property; and

(d) The right of the Association to suspend a Member's voting rights and the rights to use of Common Areas and Community Facilities, if any, for any period during which any assessment remains unpaid and for any period not to exceed thirty (30) days for any infraction of any of the published rules and regulations of the Association; and

(e) The right of the Association, acting by and through its Board of Directors and after approval of two thirds (2/3) of each class of the then Members by execution of a recordable document, to dedicate or transfer all or any part of the Common Areas and Community Facilities or the Easement Areas to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the Board of Directors; and

(f) The right of the Association, acting by and through its Board of Directors and after approval of two thirds (2/3) of each class of the then Members by execution of a recordable document, to grant licenses, rights-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other individual; provided, however, that no such licenses, rights-of-way or easements shall be unreasonably and permanently inconsistent with the rights of the Members to the use and enjoyment of the Common Areas and Community Facilities.

Section 2. Delegation of Right of Use. Any Member of the Association may delegate his rights to the use and enjoyment of the Common Areas and Community Facilities, if any, to the members of his family who reside permanently with him and to his tenants, contract purchasers who reside on the Property and guests, all subject to such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce.

ARTICLE V

Section 1. Annual Maintenance Assessments. Except as assessment of the Declarant is limited by the provisions of Article VI of this Declaration, each individual, group of individuals, corporation, partnership, trust or other legal entity, or any combination thereof, who becomes an Owner of a Unit within the Property (i.e., each Class A Member of the Association), by acceptance of a deed or other conveyance, shall be deemed to covenant and agree to pay the Association, in advance, an annual assessment required by the Association, as estimated by its Board of Directors, to meet its annual expenses, including, but in no way limited to, the following:

(a) The cost of all operating expenses of the Common Areas and Community Facilities, and the Easement Areas, and the services furnished to or in connection with the Common Areas and Community Facilities, and the Easement Areas, including charges by the Association for any services furnished by it; and

(b) The cost of necessary management and administration of the Common Areas and Community Facilities, and the Easement Areas, including fees to any Management Agent; and

(c) The amount of all taxes and assessments levied against the Common Areas and Community Facilities; and

(d) The cost of hazard and liability insurance on the Common Areas and Community Facilities and the Easement Areas and the cost of such other insurance as the Association may purchase with respect to the Common Areas and Community Facilities, the Easement Areas, or the Property; and

(e) The cost of utilities and other services which may be provided by the Association or for which the Association shall be responsible to maintain or repair for the Common Areas and Community Facilities and the Easement Areas, and the maintenance, replacement or repair of such utilities; and

(f) The cost of maintaining, replacing, repairing and landscaping the Common Areas and Community Facilities and the Easement Areas, if any, including, without limitation, maintenance of any storm water detention basins or ponds or the like located upon the Common Areas and Community Facilities and the Easement Areas, the cost of maintaining, repairing and landscaping any portion of the Units as required by this Declaration, and the cost of maintenance of all roads, easements, entrance features and monuments, fences, irrigation systems, lighting, landscaping, pathways, traffic islands or walkways upon the Property and providing access to the Property to the extent required by any easements, restrictions or agreements of record which require such contribution by the Declarant, its predecessors in title, or its successors in title, together with such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and

(g) The cost of funding all reserves, including insurance deductibles, established by the Association, including, when appropriate, a general operating reserve and a reserve for replacements.

The Board of Directors shall determine the amount of the maintenance assessment annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors, annual assessments may be levied and collected on a monthly, quarterly or semi-annual basis rather than on the annual basis hereinabove provided for.

The Board of Directors shall prepare, or cause the preparation of, an annual operating budget for the Association which shall provide, without limitation, for the management, operation and maintenance of the Common Areas and Community Facilities and the Easement Areas. The Board of Directors of the Association shall make reasonable efforts to fix the amount of the annual maintenance assessment against each Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Units and the annual maintenance assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner upon reasonable notice to the Board of Directors. Written notice of the annual maintenance assessments shall thereupon be sent to the Members. The omission of the Board of Directors, before the expiration of any assessment period, to fix the amount of the annual maintenance assessment hereunder for that or the next period, shall not in any respect be deemed a waiver of the right to modify the assessment provided for in this Article or a release of any Member from the obligation to pay the annual maintenance assessment, or any installment thereof, for that or any subsequent assessment period, but the annual maintenance assessment fixed for the preceding period shall continue until a new maintenance assessment is fixed. No Owner may exempt himself from liability for maintenance assessments by abandonment of any Unit belonging to him or by the abandonment of his right to the use and enjoyment of the Common Areas and Community Facilities or for any other reason whatsoever.

The Association shall have full responsibility for the maintenance and repair of the Common Areas and Community Facilities and the Easement Areas (to the extent owned by the Association), and shall indemnify and hold Declarant harmless from and against any and all loss, cost or expense in connection therewith, including any liability of Declarant under any indemnification and maintenance agreement for detention ponds between Declarant and Cobb County, Georgia.

Except as may be otherwise provided for in this Declaration, this Declaration does not contemplate that the Association shall have any responsibility for the maintenance or repair of the Units or their appurtenances. The responsibility and duties of the Association for maintenance and repairs shall be limited to the obligations of the Declarant and/or its predecessors in title for maintenance or repair, including but not limited to easements for ingress and egress to the Project, as set forth in easements and agreements of record, the Common Areas and Community Facilities, the Easement Areas and utilities which the Association is required to repair or maintain. The Owner of any Unit shall, at his own expense and except as provided above, maintain the interior and exterior of his Unit and all appurtenances thereto including grass, bushes, shrubs, trees and other landscape improvements in good order, condition and repair and in a clean, sightly and sanitary condition at all times.

If the Board of Directors determines (i) that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair or replacement of items for which he is responsible hereunder; or (ii) that the need for maintenance, repair or replacement in the Common Areas and Community Facilities or the Easement Areas was caused through the wilful

or negligent act of any Owner, his or her family, guests, lessees or invitees, and it is not covered and paid for by insurance, except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary by the Board of Directors. Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days after the date of such notice within which to complete maintenance, repair or replacement, or if the maintenance, repair or replacement is not capable of completion within such time period, to commence such maintenance, repair or replacement within ten (10) days and prosecute the same diligently and without interruption to completion. If the Board determines that an emergency exists, or if an Owner does not comply with the demand given by the Association as herein provided, the Association may provide any such maintenance, repair or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject and shall become and be a lien against the Unit and personal obligation of the Owner, as hereinafter provided.

Section 2- Special Maintenance Assessments. In addition to the regular maintenance assessments authorized by this Article, the Association may levy in any assessment year a special maintenance assessment or assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or inordinate repair or replacement of any improvement located upon or forming a part of the Common Areas and Community Facilities and the Easement Areas, including the necessary fixtures and personal property related thereto, or for such other purposes as the Board of Directors may consider appropriate; provided that any such assessment shall have the assent of the Members representing two-thirds (2/3) of each class of the then Members of the Association. A meeting of the Members shall be duly called for this purpose, pursuant to Section 5 below.

Section 3. Reserves for Replacements. The Association shall establish and maintain a reserve fund for replacements by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the State of Georgia or by any agency of the United States of America, or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements may be expended only for the purpose of effecting the replacement of improvement on the Common Areas and Community Facilities, the Easement Areas, or major repairs to any sidewalks, parking areas, streets, or roadways developed as part of the Property or providing access to the Property, equipment replacement, insurance deductibles, and for start-up expenses and operating contingencies of a non-recurring nature relating to the Common Areas and Community Facilities and the Easement Areas. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any Owner in any such reserves shall be considered an appurtenance of his Unit and shall not be separately withdrawn, assigned or

transferred or otherwise separated from the Unit to which it appertains and shall be deemed to be transferred with such Unit. The calculation and assessment of the reserves for replacement shall not commence with regard to any improvement until the improvement has been completed as evidenced by any authority requiring such escrow funds.

Section 4. Maximum-Annual Assessment. Until January 1 of the year immediately following conveyance of the first Unit, the maximum annual maintenance assessment for each Unit to which Class A membership is appurtenant shall be \$165.00. The annual maintenance assessment shall be levied at a uniform rate for each Unit to which Class A membership is appurtenant. The actual sums assessed annually by the Association may be at any lower amount than the maximum stated herein. There shall be proration for such annual maintenance assessment if an Owner owns a Unit for less than a full calendar year. Declarant shall be entitled to collect at closing such annual maintenance assessment for the year in which the closing occurs and, if after November 1 of any year, for the next succeeding calendar year.

Section 5. Increase in Maximum Annual Maintenance Assessment,

(a) From and after January 1 of the year immediately following the conveyance of the first Unit, the maximum annual maintenance assessment for all Class A memberships hereinabove provided for, may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the Members. The maximum annual assessment may be increased above five percent (5%) upon assent of at least two-thirds (2/3) of each class of the then Members at a meeting called for that purpose. The notice for any such meeting shall comply with the requirements of the By-Laws of the Association.

Written notice of any meeting called for the purpose of increasing the maximum annual assessment of the Association or authorizing any special assessment shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies entitled to cast sixty percent (60%) of all the votes of each class of the then Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE VI

Section 1. Non-Payment of Assessments. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the Unit or Units belonging to the Member against whom such assessment is levied and shall bind such Unit or Units in the hands of the then Owner, his

heirs, devisees, personal representatives and assigns. The personal obligation of the Member to pay such assessment shall, in addition, remain his personal obligation for the statutory period and a suit to recover a money judgment for non-payment of any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without foreclosing or waiving the lien herein created to secure the same.

Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within thirty (30) days after it is due shall bear interest at a rate not to exceed ten percent (10%) per annum as established by the Board of Directors; and may, by resolution of the Board of Directors, subject the Member obligated to pay the same to also pay such "late charge" as the Board may fix. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose on the lien against the Unit or Units then belonging to said Owner in the manner now or hereafter provided for the foreclosure of Mortgages, Deeds to Secure Debt or other liens on real Property in the State of Georgia containing a power of sale or consent to a decree, and subject to the same requirements, both substantive and procedural, or as may otherwise from time to time be provided by law. The personal obligation of the Unit Owner and the lien for assessments in favor of the Association hereunder shall also include (a) a late or delinquency charge not in excess of the greater of ten dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment thereof not paid when due; (b) interest on each such assessment or installment thereof and any delinquency or late charge pertaining thereto at a per annum rate of ten percent (10%) per annum from the date the same was first due and payable; (c) the costs of collection, including court costs, the expenses required for the protection and preservation of the Unit, and reasonable attorneys fees actually incurred, and (d) the fair rental value of the Unit from the time of the institution of an action until the sale of the Unit at foreclosure or until judgment is rendered in the action and otherwise satisfied. Any Owner who does not pay any assessment levied pursuant to this Declaration on or before the date when due shall not be entitled to use any recreational facilities located in the Common Areas and Community Facilities until such assessment is paid in full.

The Association shall notify the Holder of the First Mortgage on any Unit for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of sixty (60) days and in any other case where the Owner of such Unit is in default with respect to the performance of any other obligation hereunder for a period in excess of sixty (60) days, but any failure to give such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration, nor shall any such failure affect any priorities established in this Article.

Each Owner whose Unit is encumbered or may later become encumbered by a First Mortgage shall provide the name and address of said Mortgagee within thirty (30) days of said Owner's ownership of said Unit or within thirty (30) days of the date on which each such Mortgage is obtained by said Member. Any Owner failing to so provide shall pay the expenses of the Association to determine the name and address of the First Mortgagee.

The Board of Directors may, without any liability, post a list of Owners who are delinquent in the payment of any assessments or other fees which may become due the Association, including any installment thereof which becomes delinquent, in any prominent location upon the Property.

Section 2. Assessment Certificates. The Association shall, upon demand at any time, furnish to any Member liable for any assessment levied pursuant to this Declaration (or any other party legitimately interested in the same) a certificate in writing signed by an officer of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated. A charge not to exceed Ten and no/100 Dollars (\$10.00) may be levied in advance by the Association for each certificate so delivered.

Section 3. Priority of Lien. The lien established by this Declaration shall have preference over any other assessments, liens, judgments or charges of whatever nature, except the following.

- (a) General and special assessments for ad valorem real estate taxes on the Unit; and
- (b) The liens of any Mortgage or encumbrances duly recorded on the Unit prior to the assessment thereon of the lien provided for in this Declaration, or duly recorded on said Unit after receipt of a written statement from the Board of Directors, reflecting that payments of the assessment on said Unit were current as of the date of recordation of said Mortgage or encumbrance.

Notwithstanding any other provision of this Declaration to the contrary, the lien of any assessment levied pursuant to this Declaration upon any Unit, as in this Article provided, shall be subordinate to the lien of any Mortgage or other encumbrance duly recorded on such Unit and made in good faith and for value received and shall in no way affect the rights of the Holder of any such Mortgage or other encumbrance; provided however, that such subordination shall apply only to assessments, and installments thereof, which have become due and payable prior to a sale or transfer of the Unit pursuant to a foreclosure of such Mortgage or other encumbrance or any deed, assignment or other proceeding or arrangement in lieu of foreclosure. Any Holder of any Mortgage or other encumbrance duly recorded on the Unit and made in good faith and for value received who comes into possession of the Unit pursuant to a foreclosure of such Mortgage or other encumbrance, or any deed, assignment or other proceeding or arrangement in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the Unit free of any claims for unpaid maintenance assessments levied against the Unit which accrued prior to the time such purchaser comes into possession of the Unit or prior to the foreclosure sale. Such foreclosure, deed, assignment or other proceeding or arrangement in lieu of foreclosure shall not, however, relieve the Mortgagee in possession or the purchaser at any foreclosure sale from any liability for any maintenance assessments thereafter becoming due. Sale or transfer of a Unit other than as described above shall not affect the assessment lien. No sale or transfer of any kind shall relieve the Unit Owner from liability for any future assessments or liens.

No amendment to this Section shall affect the rights of the Holder of any First Mortgage on any Unit (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the Holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

The Board of Directors may, in its sole and absolute discretion, extend the provisions of this Section to the Holders of Mortgages (or the indebtedness secured thereby) not otherwise entitled hereto.

Notwithstanding anything to the contrary set forth in this Declaration, the unpaid share of an assessment or assessments shall be deemed to be a common expense collectible from all of the Unit Owners, including any successors, successors in title and assigns of the Unit Owner to which such unpaid assessment shall relate.

Section 4. Additional Default. Any recorded First Mortgage on a Unit on the Property shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default under such Mortgage (or the indebtedness secured thereby); but failure to include such a provision in any such Mortgage shall not affect the validity or priority thereof and the protection extended to the Holder of such Mortgage (or the indebtedness secured thereby) by reason of Section 3 of this Article shall not be altered, modified or diminished by reason of such failure. The provisions of this Section 4 shall not pertain with respect to any Mortgage wherein the Department of Housing and Urban Development has any interest whatsoever.

Section 5. Commencement of Annual Assessments. After conveyance of the Common Areas and Community Facilities and completion of all amenities thereon, the annual maintenance assessment for each Class A membership shall commence and be due and payable. Prior to conveyance of the Common Areas and Community Facilities and completion of all amenities thereon, payment of the annual maintenance assessment shall be optional. Except as otherwise herein provided, the annual assessment for any Unit shall become due and payable and a lien on January 1 of each year.

Section 6. Assessment of Declarant. Until the lapse of the Class B memberships, as above provided, the Declarant shall be subject to assessment by the Association as hereinafter provided. The Declarant shall, commencing as of the date of the conveyance of the first Unit, pay to the Association its pro rata share of the annual sum budgeted for reserves for replacements. Until the lapse of the Class B memberships, as aforesaid, the Declarant shall be responsible for payment of all budgeted expenses of the Association to the extent that the same are not funded by maintenance assessments paid to the Association. After lapse of the Class B memberships, the Declarant shall be assessed only for Units owned from time to time by Declarant.

Section 7. Exempt Property. No portion of the Common Areas and Community Facilities shall be subject to assessment of any kind by the Association.

ARTICLE VII

Section 1. Architectural and Environmental Control Committee.

Except for construction or development by, for or under contract with the Declarant, and except for any improvements to the Common Areas and Community Facilities and the Easement Areas accomplished by the Declarant concurrently with said construction and development, and except for purposes of proper maintenance and repair, no building, home, fence, wall or other improvements or structures shall be commenced, directed, placed, moved, altered or maintained upon the Property or any Unit, nor shall any exterior addition to or change (including any change of color) or other alteration thereupon be made until the complete plans and specifications showing the location, nature, shape, height, material, color, type of construction and any other proposed form of change (including, without limitation, any other information specified by the Architectural and Environmental Control Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the community by an Architectural and Environmental Control Committee designated by the Board of Directors.

Section 2. Architectural and Environmental Control Committee-Operation.

The Board of Directors shall appoint an Architectural and Environmental Control Committee. The Architectural and Environmental Control Committee shall be composed of three (3) or more natural individuals designated from time to time by the Board of Directors. The affirmative vote of a majority of the Members of the Architectural and Environmental Control Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article.

Section 3. Approvals, etc. Upon approval by the Architectural and Environmental Control Committee of any plans and specifications submitted pursuant to the provisions of this Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Committee fails to approve or disapprove any plans and specifications which may be submitted to it pursuant to the provisions of this Article within thirty (30) days after such plans and specifications (and all other materials and information required by the Architectural and Environmental Control Committee) have been submitted to it in writing, then approval will not be required and this Article will be deemed to have been fully complied with.

Section 4. Limitations. Construction or alterations in accordance with plans and specifications approved by the Architectural and Environmental Control Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Committee (whether by affirmative action or by forbearance from action, as in Section 3 of this Article above), and shall be substantially completed within twelve (12) months following the date of commencement, or within such other period as the Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from the plans and specifications approved by the Committee without the prior consent in writing of the Committee. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

Section 5. Certificate of Compliance. Upon the completion of any construction or alterations or other improvements to a Unit in accordance with plans and specifications approved by the Architectural and Environmental Control Committee, the Architectural and Environmental Control Committee shall, at the request of the Owners thereof, issue a certificate of compliance which shall be prima facie evidence that such construction, alteration or other improvements referenced in such certificate have been approved by the Architectural and Environmental Control Committee and constructed or installed in full compliance with the provisions of this Declaration.

Section 6. Rules and Regulations, etc. The Architectural and Environmental Control Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish and record such statements of policy, standards, guidelines and establish such criteria relative to architectural styles or details, fences, colors, setbacks, materials or other matters relative to architectural control and the protection of the environment, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The Architectural and Environmental Control Committee may charge and collect a reasonable fee for examination of any plans and specifications submitted for approval pursuant to the provisions of this Article. The decisions of the Architectural and Environmental Control Committee shall be final except that any Member who is aggrieved by an action or forbearance from action by the Committee (or by any policy, standards or guidelines established by the Committee) may within thirty (30) days from the date of such decision, appeal the decision of the Architectural and Environmental Control Committee to the Board of Directors. Upon such request, the Member shall be entitled to a hearing before the Board of Directors of the Association. The decision of the Board of Directors shall be final.

Section 7- Prohibited Uses and Nuisances. Except for the activities of the Declarant during the construction, marketing, sales, or development of the Property, or except with the prior written approval of the Board of Directors of the Association or the Architectural and Environmental Control Committee, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the Common Areas or Common Facilities or upon the Easement Areas:

(a) No noxious or offensive trade or activity shall be carried on at or within any Unit, nor shall anything be done therein or thereon, which may be or become an annoyance or nuisance to the neighborhood or other Owners. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Unit or upon the exterior of any other improvements.

(b) The maintenance, keeping, boarding or raising of animals, livestock, or poultry of any kind, regardless of number, shall be and is hereby prohibited in any Unit or upon any of the Common Areas, except that this shall not prohibit the keeping of dogs, cats, or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes and, provided further, that such domestic pets are not a source of annoyance or nuisance to the other Owners. The Board of Directors or, upon resolution of the Board of Directors, the Architectural and Environmental Control Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other Owners, and such determination shall be final. Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the Common Areas unless accompanied by a responsible individual and unless they are carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

(c) No burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any kind shall be permitted in any Unit.

(d) Except as herein elsewhere provided, no junk vehicle, commercial vehicle, trailer, camper, camp truck, house trailer, recreational vehicle, boat or other similar machinery or equipment of any kind or character (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any Unit and except for such equipment and machinery as the Association may require in connection with the maintenance and operation of the Common Areas and Community Facilities) shall be kept upon the Property nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon.

(e) Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any portion of the Property. Garbage, trash and other refuse shall be placed in covered containers.

(f) Except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, television cable or similar transmission line shall be installed or maintained above the surface of the ground.

(g) No Unit shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

(h) No structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, outdoor clothes dryer, shed or other buildings shall be erected, used or maintained on the Property at any time.

(i) Except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" and such promotional sign or signs as may be maintained by the Declarant or the Association, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any Unit. Provided, however, that one sign not exceeding two (2) square feet in area and not illuminated may be attached to a Unit where a professional office (as defined below) is maintained, and provided further, that one temporary real estate sign not exceeding six (6) square feet in area, may be erected upon the Property in front of or may be attached to any Unit placed upon the market for sale or rent. Any such temporary real estate sign shall be removed promptly following the sale or rental of such Unit. The provisions of this subsection shall not apply to any Institutional Mortgagee of any Unit who comes into possession of the Unit by reason of any remedies provided by law or in such Mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

(j) No structure, planting or other material (except as erected or planted by Declarant) shall be placed or permitted to remain upon any portion of the Property which may damage or interfere with any easement for the installation or maintenance of utilities easements or easements for use or ingress and egress or which may unreasonably change, obstruct or retard direction or flow of any drainage channels.

(k) No outside television aerial, satellite dish, or radio antennae, or other aerial, antennae or dish for either reception or transmission of radio, television, or other electronic or electrical data, shall be maintained upon the Property except that such aerials, antennae or dishes may be erected and maintained within the interior of Units located upon the Property.

(l) No Owner shall make any private or exclusive or proprietary use of any of the Common Areas and Community Facilities except with the specific approval of the Architectural and Environmental Control Committee and then only on a temporary basis and no Owner shall engage or direct any employee of the Association to do any private business of the Owner during

the hours such employee is employed by the Association, nor shall any Owner direct, supervise or in any manner attempt to assert control over any employee of the Association.

(m) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk storage and basement area, whether or not finished) of residences constructed on Units shall contain not less than one thousand six hundred (1,600) square feet. No dwelling shall be constructed which exceeds two and one-half (2-1/2) stories in height.

Section 8- Residential Use Leasing.

(a) All Units shall be used for private residential purposes exclusively, except that a professional office may be maintained in a Unit, if such maintenance and use is limited to the individual actually residing in the Unit and, if such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation. As used in this Declaration, the term "professional office" shall mean rooms used for office purposes by a Member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics. Nothing contained in this Declaration shall be construed to prohibit the Declarant from the use of any Unit for promotional or display purposes, as "model homes," as a sales office, or the like.

(b) Units may be rented only in their entirety; no fraction or portion may be rented, and no transient tenants may be accommodated therein. All leases and lessees are subject to the provisions of the Declaration and By-Laws and must be in writing. All rental periods must be for a term of not less than six (6) months. The Unit Owner must make available to the tenant copies of the Declaration, the By-Laws and any rules and regulations promulgated pursuant thereto. Any lease of a Unit shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Unit Owner agrees that any lease of a Unit shall contain the following language and that if such language is not expressly contained therein, such language shall be incorporated into any such lease by the existence of this covenant. Any lessee, by occupancy of a Unit, agrees to the applicability of this covenant and the incorporation of this covenant and the following language into the lease:

(i) Any lessee (tenant) of a Unit agrees to abide by and comply with all provisions of the Declaration, the Association By-Laws and all rules and regulations promulgated pursuant thereto. The above provisions shall not be construed to release the Unit Owner from any obligation, including the obligation for assessments for which he or she would otherwise be responsible, and the lessee and Owner shall be jointly and severally liable therefor.

(ii) Any violation of the Declaration, the Association By-Laws or the rules and regulations adopted in accordance therewith shall be deemed to be a violation of the terms and provisions of the lease and thereby authorize the Owner/lessor to terminate the lease without liability and to evict the tenant/lessee in accordance with Georgia law.

(iii) Any tenant charged with the violation of the Declaration, the Association By-Laws or any rules and regulations adopted pursuant thereto shall be entitled to the same rights to which the Unit Owner would be entitled under the Declaration, the By-Laws or the rules and regulations adopted.

Section 9- Fences. No fence shall be more than six (6) feet in height. Chain link and other wire fencing is specifically prohibited. The erection of all fences shall be subject to the provisions of Article VII of this Declaration. Except as may be erected by Declarant, there shall be no fences in front of any Unit. Declarant has developed a series of standard fence details, which provide several versions of approved fence construction, design and materials for construction offences on Units, which standard fence details have been approved by Declarant pursuant to the provisions of Article VII of this Declaration. Any fencing to be constructed by a Unit Owner on any Unit must conform to one of the standardized fence details previously approved by Declarant. A description of the current standardized fence details which have been pre-approved by Declarant is attached hereto as Exhibit C and incorporated by this reference. Notwithstanding anything to the contrary set forth herein, Declarant shall have the right from time to time to amend such fence details, add additional fence details, modify existing fence details criteria, or delete fence details criteria, at Declarant's sole discretion, so long as changes shall not be applied retroactively to completed fences located on Units.

Section 10. House Rules, etc. There shall be no violation of any rules for the use of the Common Areas and Community Facilities or "house rules" or other community rules and regulations not inconsistent with the provisions of this Declaration which may from time to time be adopted by the Board of Directors of the Association and promulgated among the membership in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules.

Section 11. Enforcement - Right to Remove or Correct Violations.

In the event any violation or attempted violation of any of these Covenants and Restrictions shall occur or be maintained within any Unit, or in the event of any other conduct in violation of any of the provisions or requirements of this Declaration, then the same shall be considered to have been undertaken in violation of this Declaration and without the approval of the Architectural and Environmental Control Committee required herein and, upon written notice from the Architectural and Environmental Control Committee, such violation shall be promptly removed or abated. In the event the same is not removed, or the violation is not otherwise terminated or abated, within fifteen (15) days (or such shorter period as may be required in any such notice) after notice of such violation is delivered to the Owner of the Unit within which such violation exists, or to the Member responsible for such violation if the same shall be committed or attempted on premises other than the Unit owned by such Member, then the Association shall have the right, through its agents and employees (but only after a resolution of the Architectural and Environmental Control Committee) to enter such Unit and to take such steps as may be necessary to remove or otherwise terminate or abate such violation, and the cost

thereof may be assessed against the Unit upon which such violation occurred and when so assessed, a statement for the amount thereof shall be rendered to the Owner of said Unit, at which time the assessment shall become due and payable and a continuing lien upon such Unit, and a binding personal obligation of the Owner of such Unit, in all respects (and subject to the same limitations) as provided in this Declaration. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Unit, at any reasonable time and upon reasonable prior notice, for the purpose of ascertaining whether any violation of the provisions of this Article or any of the other provisions or requirements of this Declaration exist within such Unit; and neither the Association nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

ARTICLE VIII

Section 1- Common Areas and Community Facilities, and Easement Areas Insurance.

(a) The Board shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board of Directors deems appropriate, insuring all Common Areas and Community Facilities or the Easement Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage and vandalism and malicious mischief, and coverage usually provided by the standard "all risk" endorsement. Such insurance coverage to be in an amount sufficient to cover the full replacement cost (without depreciation) of any repair or reconstruction in the event of damage or destruction from any such hazard.

(b) The Board of Directors shall conduct, at least once every two (2) years, an insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all insured Common Areas and Community Facilities and Easement Areas.

(c) All Property insurance policies obtained by the Board may contain reasonable deductibles, and the amounts thereof shall be added to the face amounts of such policies in determining whether such insurance coverage equals at least the full replacement cost of such insured improvements.

Provided, that unless a higher maximum amount is required by State law, the maximum deductible amount for any policy or policies covering the Common Area and Common Facilities and Easement Areas shall not exceed the lesser of \$10,000 or 1% of the face amount of such policy or policies and the maximum deductible amount for any policy or policies covering the Units shall not exceed the lesser of \$1,000 or 1% of the replacement cost of such Unit or Units.

(d) All such insurance coverage obtained by the Board on Common Areas and Community Facilities and Easement Areas shall be written in the name of the Association and costs of all such coverage shall be a common expense of the Association and subject to the provisions of Article V of this Declaration. Exclusive authority to adjust losses under policies

obtained by the Board and hereafter in force with respect to the Units shall be vested in the Board. Insofar as permitted by law, the Association shall be required to make a good faith effort to secure insurance policies with the provisions hereinafter set forth:

- (i) All policies shall be written with a company licensed to do business in the State of Georgia and holding a rating of A-XI or better in the financial category as established by Best's Insurance Reports if such a company is available and, if not available, its equivalent rating or the best rating possible.
- (ii) All property insurance policies shall be for the benefit of the Association.
- (iii) All property insurance policies shall contain a waiver by the insurer of its right to repair and reconstruct instead of paying cash.
- (iv) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by Owners or their Mortgagees.
- (v) All policies shall contain a provision that no policy may be cancelled, invalidated, or suspended on account of the conduct of one or more of the individual Owners, or their respective families, tenants, agents, and guests, or on account of the acts of any director, officer, employee, or agent of the Association or of its management agent without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.
- (vi) All policies shall contain "Agreed Amount and Inflation Guard Endorsement" and a "Construction Code Endorsement."

Section 2. Owner's Insurance. It shall be the responsibility, and obligation of each Owner to obtain insurance, at his own expense, affording public liability coverage and/or fire, hazard and property damage coverage upon his Unit.

Section 3. Assessments. If the damage or destruction to Common Areas and Community Facilities or the Easement Areas for which the insurance proceeds are paid to the Association is to be repaired or reconstructed, and such proceeds together with the deductible amounts maintained on reserve are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment or assessments against all Unit Owners to provide sufficient funds to pay such excess cost of repair or reconstruction. Additional assessments, as needed, may be made in like manner at any time during or following the completion of such repair or reconstruction.

Section 4- Repair and Reconstruction. If the damage or destruction to Common Areas and Community Facilities or the Easement Areas is to be repaired or reconstructed, the funds for the payment of repair or reconstruction shall consist of the proceeds of insurance, reserves for deductible amounts and funds collected by the Association from assessments as provided herein and shall be disbursed in payment of such costs in the discretion of the Board of Directors.

ARTICLE IX

Section 1. Management Agent. The Board of Directors may employ on behalf of the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing, including without limitation:

(a) To establish (with the approval of the Board of Directors of the Association) and provide for the collection of the annual maintenance assessments and any other assessments provided for in this Declaration and to provide for the enforcement of liens therefor in a manner consistent with law and the provisions of this Declaration;

(b) To provide for the care, upkeep, maintenance and surveillance of the Common Areas and Community Facilities and the Easement Areas;

(c) To designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the Common Areas and Community Facilities and the Easement Areas;

(d) To promulgate (with the approval of the Board of Directors of the Association) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper respecting the use of the Common Areas and Community Facilities; and

(e) To provide such other services (including accounting services) for the Association as may be consistent with law and the provisions of this Declaration.

Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated with or without cause by either party upon thirty (30) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

Section 2. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to individuals or property or Units caused by the elements or resulting from

water which may leak or flow from any portion of the Common Areas and Community Facilities, or the Easement Areas, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any Member for loss or damage, by theft or otherwise, for articles which may be stored upon the Common Areas and Community Facilities. No diminution or abatement of assessments, or the Easement Areas, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas and Community Facilities or the Easement Areas, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

ARTICLE X

Section 1. Reservation of Easement Rights by the Declarant. The Declarant hereby reserves a non-exclusive easement and right-of-way in, through, over and across the Common Areas and Community Facilities and the Easement Areas for the purposes of storage of building supplies and materials, the installation, construction, maintenance, reconstruction and repair of sanitary sewer lines, water lines, cables, storm drains, easements and appurtenances to any of the same, and for all other purposes reasonable related to the completion of construction and the provision of utility services, whether public or private, to the Property, in the vicinity of the Property. Any and all instruments of conveyancing made by the Declarant to the Association with respect to any of the Common Areas and Community Facilities, the Easement Areas or easements shall be conclusively deemed to incorporate this reservation, whether or not specifically set forth in such instruments. At the request in writing of the Declarant, the Association shall from time to time execute, acknowledge and deliver to the Declarant such further assurances of this reservation as may be necessary.

Section 2. Easements for Utilities and Related Purposes. The Association is authorized and empowered to grant (and shall from time to time grant) such other licenses, easements and rights-of-way over the Common Areas and Community Facilities and the Easement Areas for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains, cables, underground conduits and such other purposes related to the provision of utility services to the community as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation and enjoyment of the Common Areas and Community Facilities and the Easement Areas and for the preservation of the health, safety, convenience and welfare of the Owners of the Units.

Section 3. Additional Easement Rights. The Association shall have the right to enter upon the Common Areas and Community Facilities and the Easement Areas and, to the extent required, to enter upon each Unit and any portion thereof for the purpose of installing, maintaining, repairing or replacing sanitary or storm sewer lines, water lines and such other utilities as may be located under or cross under any such Unit or Units and any Property conveyed therewith; for the purpose of repairing, maintaining or replacing Community Facilities and the Easement Areas or

any improvements or structures located on Common Areas or the Easement Areas; and for the purpose of repairing, maintaining or landscaping that portion of each Unit and any Property conveyed therewith for which the Association has been given or may assume that responsibility or obligation, and for those purposes an easement is hereby reserved in favor of the Association.

Section 4- Additional Easement Rights of Declarant. The Declarant and its agents, representatives and employees, shall have, and there is hereby reserved thereunto, an easement for the maintenance of sales offices and/or model Units on the Property and an easement as required for the development, construction and/or sale of the Units on the Property (including an easement for on-site sale signage) for so long as Declarant owns any Class A membership or Class B membership in the Property.

ARTICLE XI

Section 1. Amendment. Prior to the sale of the lapse of the Class B membership, this Declaration may be amended from time to time by Declarant. Notwithstanding anything to the contrary set forth in this Declaration, during such time as the Declarant shall own at least one Unit primarily for the purpose of sale of such Unit, no amendment shall be made to this Declaration without the written agreement of the Declarant if such amendment would impose a greater restriction on the use or development by the Declarant of the Unit or Units owned by the Declarant. Subject to the other limitations set forth in this Declaration, after lapse of the Class B Membership and during the initial twenty (20) year term hereof, this Declaration may be amended only by an instrument executed and acknowledged by ninety percent (90%) of the Unit Owners, which instrument shall be recorded among the Cobb County, Georgia records. Subject to the other limitations set forth in this Declaration, after the initial twenty (20) year term hereof, this Declaration may be amended by an instrument executed and acknowledged by seventy-five percent (75%) of the Unit Owners, which instrument shall be recorded among the Cobb County, Georgia records. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording.

In the event that any portion of the Property shall be financed by or shall be bought by Declarant or any successors or assigns to be financed by loans insured by the Veterans Administration or the Federal Housing Administration or, in the event that any loans secured by First Mortgage on any Units are purchased by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or by any Institutional Mortgagee or by a similar type organization, the Board of Directors of the Association may, without the assent of the membership, amend this Declaration and do such other acts as are necessary to comply with the requirements of the Veterans Administration, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or such similar organization as the case may be. Any such amendment must be properly recorded.

Section 2. Duration. Unless amended in accordance with the provisions of this Declaration, and except where permanent easements or other permanent rights or interests are herein created, the Covenants and Restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods often (10) years.

Section 3- Construction and Enforcement. The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Property. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any individual or individuals violating or attempting to violate any Covenant or Restriction, either to restrain or enjoin violation or to recover damages or both, and against any Unit to enforce the lien created hereby; the failure or forbearance by the Association or the Owner of any Unit to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The provisions hereof may be enforced, without limitation, by the Association, by any Owner or Mortgagee of any Unit which becomes subject to the provisions hereof, and by any other individual, firm, corporation or legal entity who has any right to the use of any of the Common Areas and Community Facilities owned by the Association. Social Members may only seek to enforce those provisions of this Declaration which directly affect the areas of use and enjoyment specifically designated for Social Members.

There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

Section 4. Successors of Declarant. Any and all rights, reservations, easements, interest, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant, with or without notice to the Association.

Section 5. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers any Unit, any deed purporting to effect such transfer shall contain a provision incorporating by reference this Declaration. In the event a deed fails to contain the provision as provided herein, this Declaration shall be incorporated into such deed by reference and all transfers shall be subject to the provisions contained herein.

Section 6. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail postpaid, to the last know address of the individual who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 7. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Areas and Community Facilities by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Areas and Community Facilities.

Section 8. Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

Section 9. Consents. Any other provision of this Declaration to the contrary notwithstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Institutional Mortgagees holding first priority Mortgages of record on the Units of which the Board of Directors have been notified:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the Common Areas and Community Facilities; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and Community Facilities by the Members of the Association, the granting of easements in the Easement Areas, or the dedication of streets and other rights of way in the subdivision shall not be an action requiring any approval within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(c) modify the method of determining and collecting common expense assessments or other assessments as provided for in this Declaration; or

(d) resolve to use the proceeds of casualty insurance for any purpose other than the repair, replacement or reconstruction of the Common Areas and Community Facilities or the Easement Areas; or

(e) modify or amend any material or substantive provision of this Declaration which will adversely affect the interest of the Institutional Mortgagees holding first priority Mortgages.

Section, 10. Consent of Federal Housing Administration. Veterans Administration and Federal National Mortgage Association

Provided that any Unit in the project is then encumbered by a Mortgage which is insured by the Veterans Administration, Federal Housing Administration, or by the Federal National Mortgage Association and provided further that there are then Class B memberships of the Association outstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the above-mentioned institution or institutions insuring Mortgages on any Units:

(a) abandon, partition, subdivide, encumber, sell, dedicate or transfer any of the Common Areas and Community Facilities; or

(b) modify or amend any material or substantive provisions of the Declaration.

Section 11. Additional Rights of Mortgagees - Notice. The Association shall promptly notify the Holder of the First Mortgage on any Unit for which any assessment levied pursuant to the Declaration or any installment thereof, becomes delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify the Holder of the First Mortgage on any Unit with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any First Mortgage on any Unit, and the protection extended in this Declaration to the Holder of any such Mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days written notice to the Mortgagee holding the first priority Mortgage on the Unit which is the subject matter of such suit or proceeding.

Any Institutional Mortgagee may pay any taxes, utility charges or other charge levied against the Common Areas and Community Facilities which are in default and which may or have become a charge or lien against any of the Common Areas and Community Facilities, and any such Mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to any Unit in which it holds a security interest or the Common Areas and Community Facilities. Any Mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

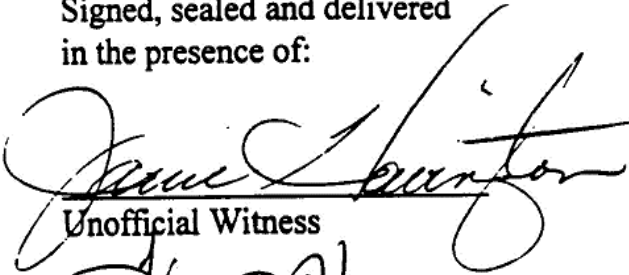
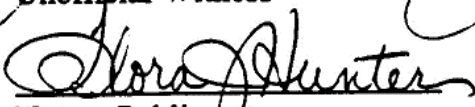
Section 12. Condemnation or Eminent Domain. In the event any part of the Common Areas and Community Facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or

proposed acquisition to the Holders of all First Mortgages of record on the Units. No provision of this Declaration or the By-Laws of the Association shall entitle any Member to any priority over the Mortgagee holding a first priority Mortgage of record on his Unit with respect to the distribution to such Member of the proceeds of any condemnation or settlement relating to a taking of the Common Areas and Community Facilities.

Section 13. Captions and Gender. The captions contained in this Declaration are for convenience only, are not a part of this Declaration, and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the. singular shall also include the plural.

IN WITNESS WHEREOF, the Declarant has, on the day and year first above written, caused these presents to be executed and sealed in its corporate name by Douglas W. Puvogel, as attorney-in-fact, and does hereby appoint the Undersigned, as its true and lawful attorney-in-fact to acknowledge and deliver these presents as its act and deed.

Signed, sealed and delivered
in the presence of:


Unofficial Witness

Notary Public

My Commission Expires:

Notary Public, Fulton County, Georgia
My Commission Expires Nov. 1, 1998

[Affix Notarial Seal]

PULTE HOME CORPORATION,
a Michigan corporation

By: 

Douglas W. Puvogel (Pursuant to Power
of Attorney and Grant of Agency
executed by Robert K. Burgess,
President of Pulte Home Corporation,
which Power of Attorney and Grant
of Agency is recorded in the real
property records of Cobb County,
Georgia at Deed Book 6590,
page 0270)

[CORPORATE SEAL]

EXHIBIT A

Legal Description-The Glens At Powers Ferry Subdivision Unit I

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 795 and 796, 17th District, 2nd Section, Cobb County, Georgia being more particularly described as follows:

Beginning at the point where the land lot line dividing Land Lot 794 and 795, aforesaid district, section and county (being the southern land lot line of Land Lot 794 and the northern land lot line of Land Lot 795) intersects the eastern right-of-way line of Little Road (50 foot right-of-way), with a one-half inch rebar found being found at the Point of Beginning (said Point of Beginning also being the southwestern corner of Lot 1, Red Oak Park Subdivision, Units 5 and 6 (Revised), Plat Book 18, page 200, Cobb County, Georgia records); thence leaving the eastern right-of-way line of Little Road and traveling North $86^{\circ} 47' 23''$ East 677.54 feet to a one and one-half inch open top found at the intersection of Land Lots 861, 862, 794 and 795, aforesaid district, section and county (the above-described northern property line of this Property also being the southern property line of Lots 1-7, inclusive, Red Oak Park Subdivision, Units 5 and 6 (Revised) Plat Book 18, page 200, Gwinnett County, Georgia Records); thence traveling along the land lot line dividing Land Lots 861 and 795, aforesaid district, section and county (being the eastern line of Land Lot 795, and the western line of Land Lot 861) South $02^{\circ} 15' 00''$ East 802.28 feet to a one-half inch rebar found; thence leaving said land lot line and traveling South $87^{\circ} 45' 00''$ West 110.00 feet to a point; thence traveling South $02^{\circ} 15' 00''$ East 32.02 feet to a point; thence traveling South $87^{\circ} 45' 00''$ West 150.00 feet to a point; thence traveling South $02^{\circ} 15' 00''$ East 24.41 feet to a point; thence traveling South $87^{\circ} 45' 00''$ West 50 feet to a point; thence traveling South $88^{\circ} 56' 20''$ West 50.01 feet to a point; thence traveling North $72^{\circ} 04' 36''$ West 106.54 feet to a point; thence traveling South $88^{\circ} 56' 20''$ West 125.28 feet to a point; thence traveling along the arc of a curve to the right (radius equals 645.30 feet) an arc distance of 75.13 feet to a point, said arc being subtended by a chord bearing South $06^{\circ} 40' 15''$ West and having a chord length of 37.61 feet; thence traveling South $35^{\circ} 02' 37''$ West 54.76 feet to a point on the eastern right-of-way line of Little Road (50 foot right-of-way); thence traveling along the eastern right-of-way line of Little Road in a northerly direction along the arc of a curve to the left (radius equals 630.11 feet) an arc distance of 377.72 feet to a point, said arc being subtended by a chord bearing North $34^{\circ} 20' 48''$ West having a chord length of 194.73 feet; thence continuing along the eastern right-of-way line of Little Road North $11^{\circ} 12' 18''$ West 242.25 feet to a point; thence traveling along the arc of a curve to the left (radius equals 6,374.75 feet) an arc distance of 316.96 feet to a point, said arc being subtended by a chord bearing North $10^{\circ} 10' 52''$ West and having a chord length of 316.93 feet to the Point of Beginning.

The above-described property, consisting of Lots 1-50, inclusive, and Lots 98-104, inclusive, together with a detention facility and road rights-of-way, consists of Unit I, The Glens at Powers Ferry Subdivision, as shown on a Plat by Travis N. Pruitt, Sr., Georgia R.L.S. No. 1729, Georgia R.L.E. No. 6610, dated July 22, 1995 (Job No. 94622.5).

EXHIBIT B

Legal Description-Additional Property-The Glens At Powers Ferry Subdivision

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 795 and 796, 17th District, 2nd Section, Cobb County, Georgia being more particularly described as follows:

Beginning at the point where the land lot line dividing Land Lot 794 and 795, aforesaid district, section and county (being the southern land lot line of Land Lot 794 and the northern land lot line of Land Lot 795) intersects the eastern right-of-way line of Little Road (50 foot right-of-way), with a one-half inch rebar found being found at the Point of Beginning (said Point of Beginning also being the southwestern corner of Lot 1, Red Oak Park Subdivision, Units 5 and 6 (Revised), Plat Book 18, page 200, Cobb County, Georgia records); thence leaving the eastern right-of-way line of Little Road and traveling North $86^{\circ} 47' 23''$ East 677.54 feet to a one and one-half inch open top found at the intersection of Land Lots 861, 862, 794 and 795, aforesaid district, section and county (the above-described northern property line of this Property also being the southern property line of Lots 1-7, inclusive, Red Oak Park Subdivision, Units 5 and 6 (Revised) Plat Book 18, page 200, Gwinnett County, Georgia Records); thence traveling along the land lot line dividing Land Lots 861 and 795, aforesaid district, section and county (being the eastern line of Land Lot 795, and the western line of Land Lot 861) South $02^{\circ} 15' 00''$ East 1,317.13 feet to a one and one-half inch open top found at the intersection of Land Lots 795, 796, 860 and 861, aforesaid district, section and county (also being the city limits line for the City of Marietta, Georgia); thence leaving such land lot line and traveling along the northern property line of Eubanks Dogwood Park No. 2 (Plat Book 25, page 125, aforesaid record) South $75^{\circ} 20' 41''$ West 565.59 feet to a point on the northeastern right-of-way line of Powers Ferry Road (variable width right-of-way); thence traveling along the northeastern right-of-way line of Powers Ferry Road along the arc of a curve to the right (radius equals 813.25 feet) an arc distance of 282.97 feet to a point, said arc being subtended by a chord bearing North $48^{\circ} 43' 13''$ West and having a chord length of 281.54 feet; thence continuing along the miter of the intersection of the northeastern right-of-way line of Powers Ferry Road and the eastern right-of-way line of Little Road (50 foot right-of-way) North $08^{\circ} 13' 59''$ West 62.54 feet to a point; thence traveling along the eastern right-of-way line of Little Road North $24^{\circ} 25' 31''$ East 267.47 feet to a point; thence traveling along the eastern right-of-way line of Little Road along the arc of a curve to the left (radius equals 630.11 feet) an arc distance of 387.97 feet to a point, said arc being subtended by a chord bearing North $04^{\circ} 48' 41''$ East having a chord length of 381.87 feet; thence continuing along the eastern right-of-way line of Little Road North $11^{\circ} 12' 18''$ West 242.25 feet to a point; thence continuing along the eastern right-of-way line of Little Road along the arc of a curve to the left (radius equals 6,374.75 feet) an arc distance of 316.96 feet, said arc being subtended by a chord bearing North $10^{\circ} 10' 52''$ West and having a chord length of 316.93 feet to the Point of Beginning.

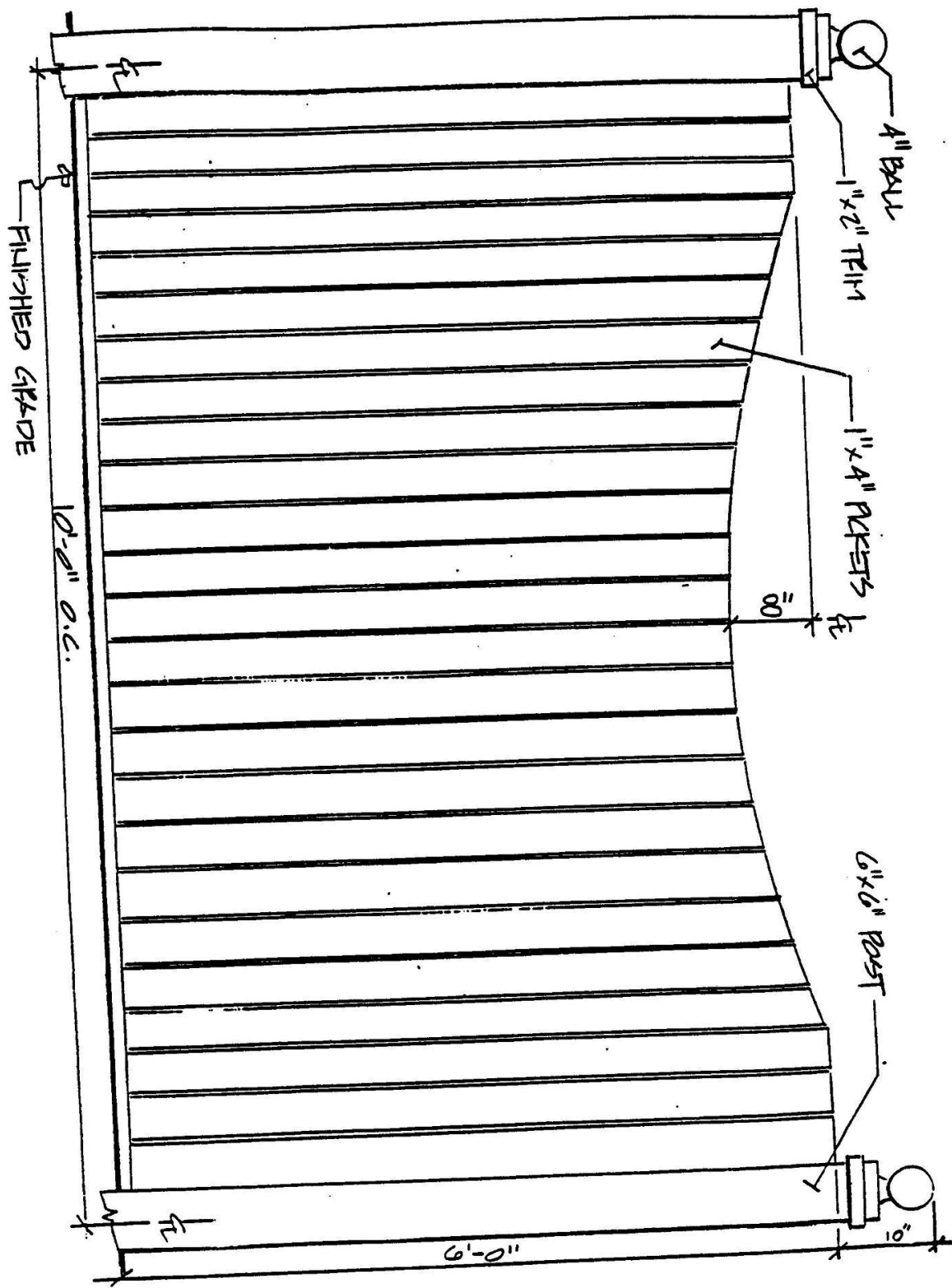
The above-described property consisting of The Glens at Powers Ferry Subdivision (104 Lots), being approximately 20.5531 acres, as shown on a Plat by Travis N. Pruitt, Georgia R.L.S. No. 1729, Georgia R.L.E. No. 6610, dated February 8, 1995 (Job No. 94622-G).

LESS AND EXCEPT:

All that tract or parcel of land more particularly described on Exhibit A attached to this Declaration.

EXHIBIT C

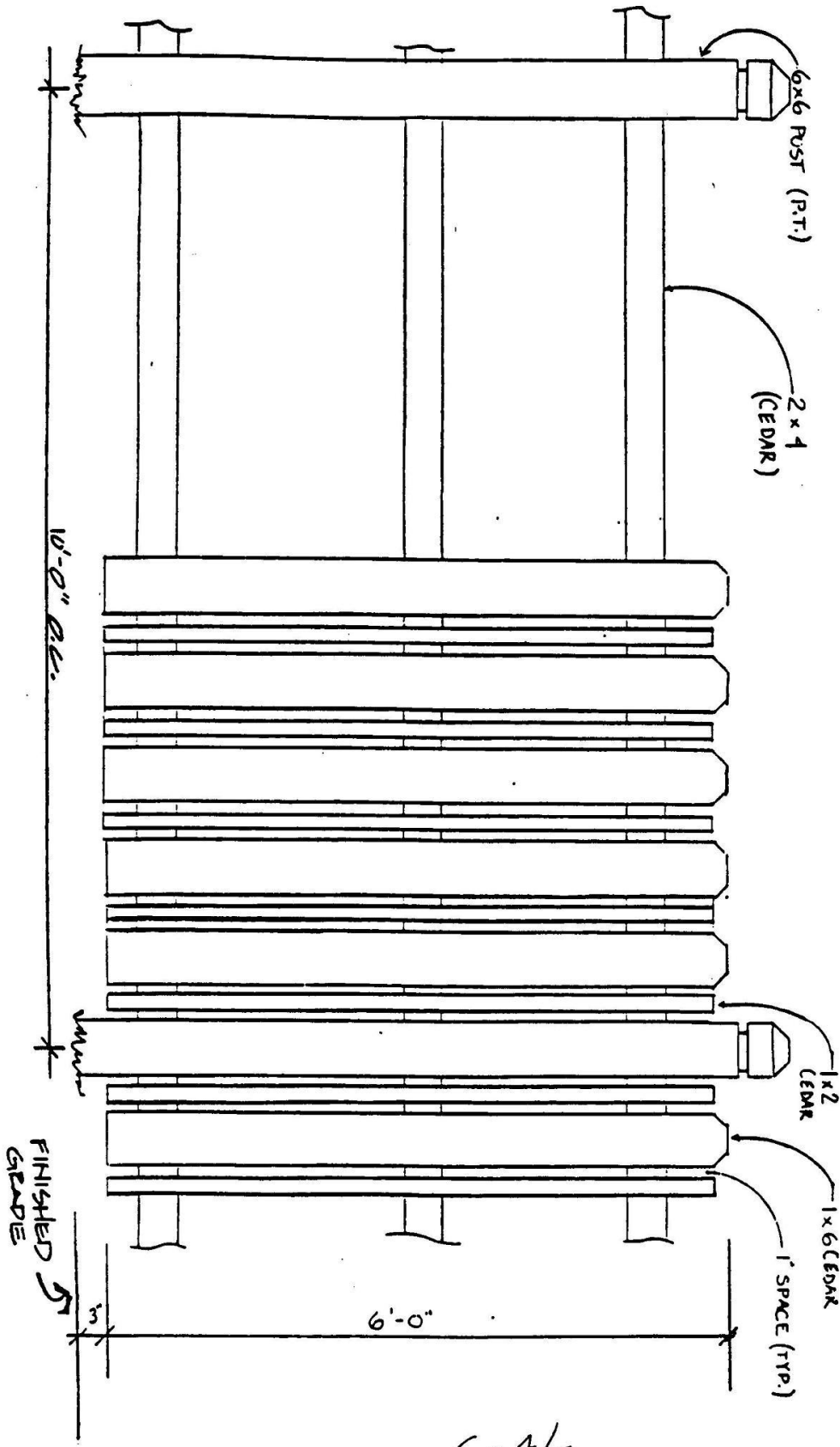
Fence Details



FENCE DETAIL 'E'

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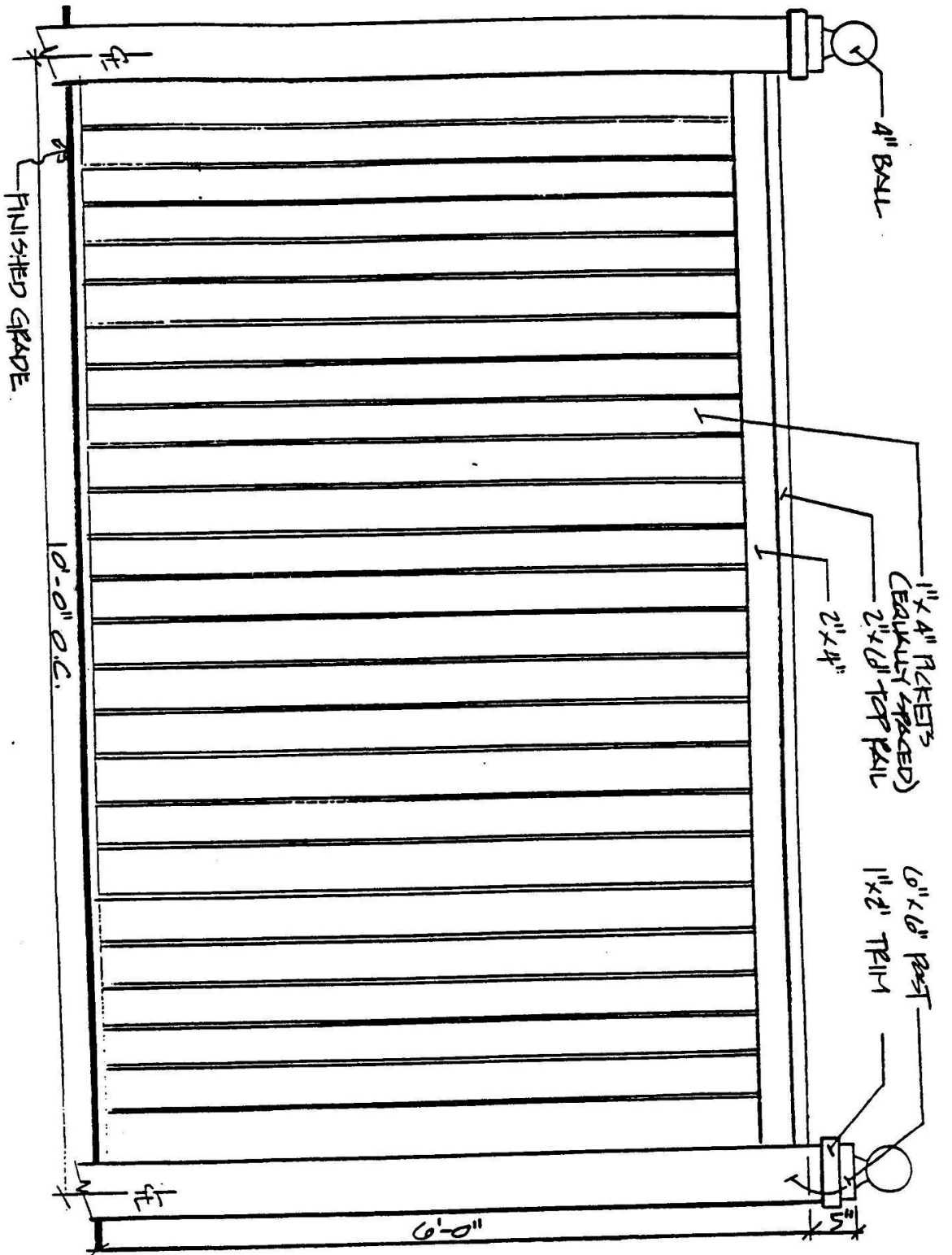
C-5/5



FENCE DETAIL 'D'

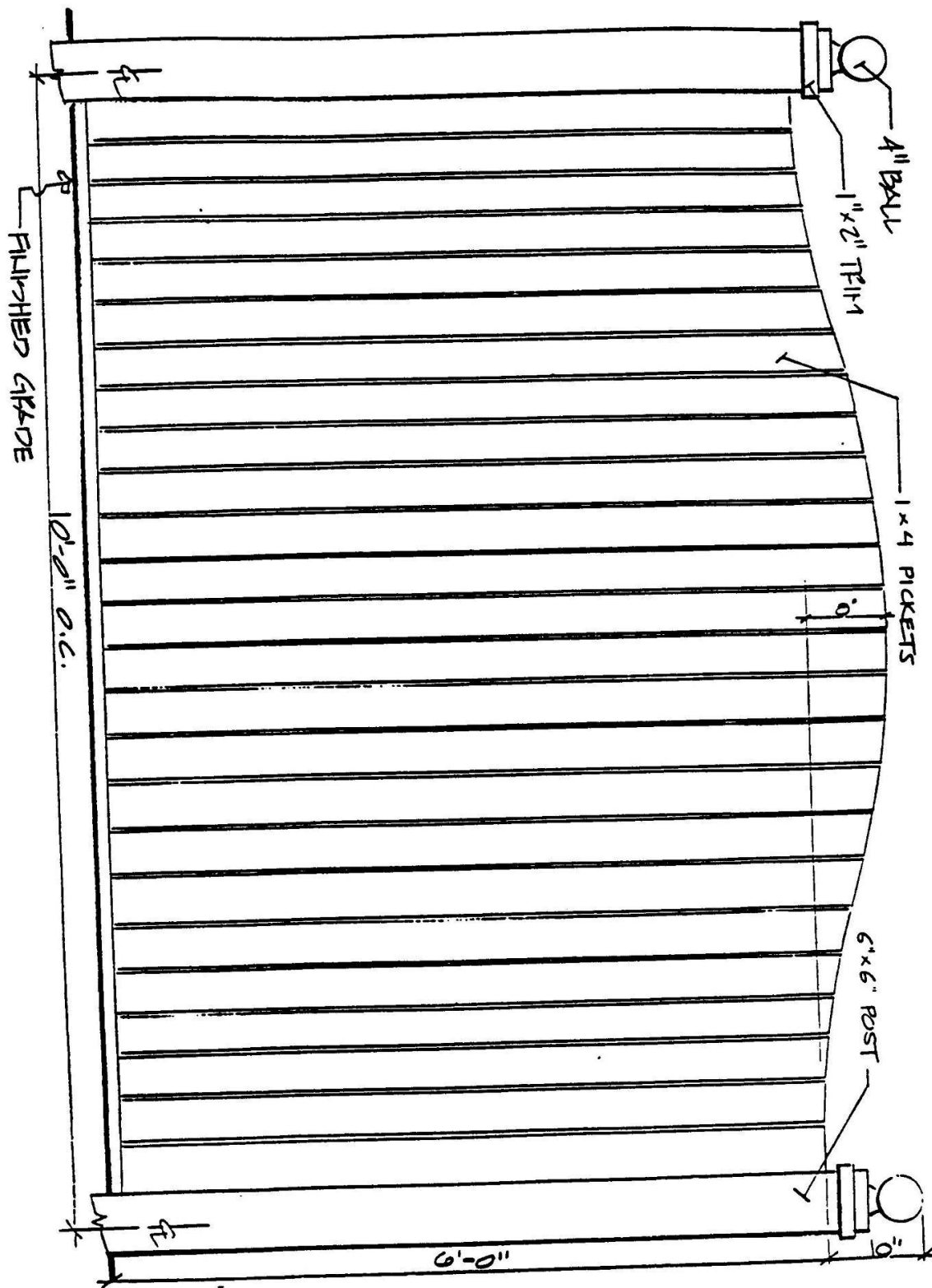
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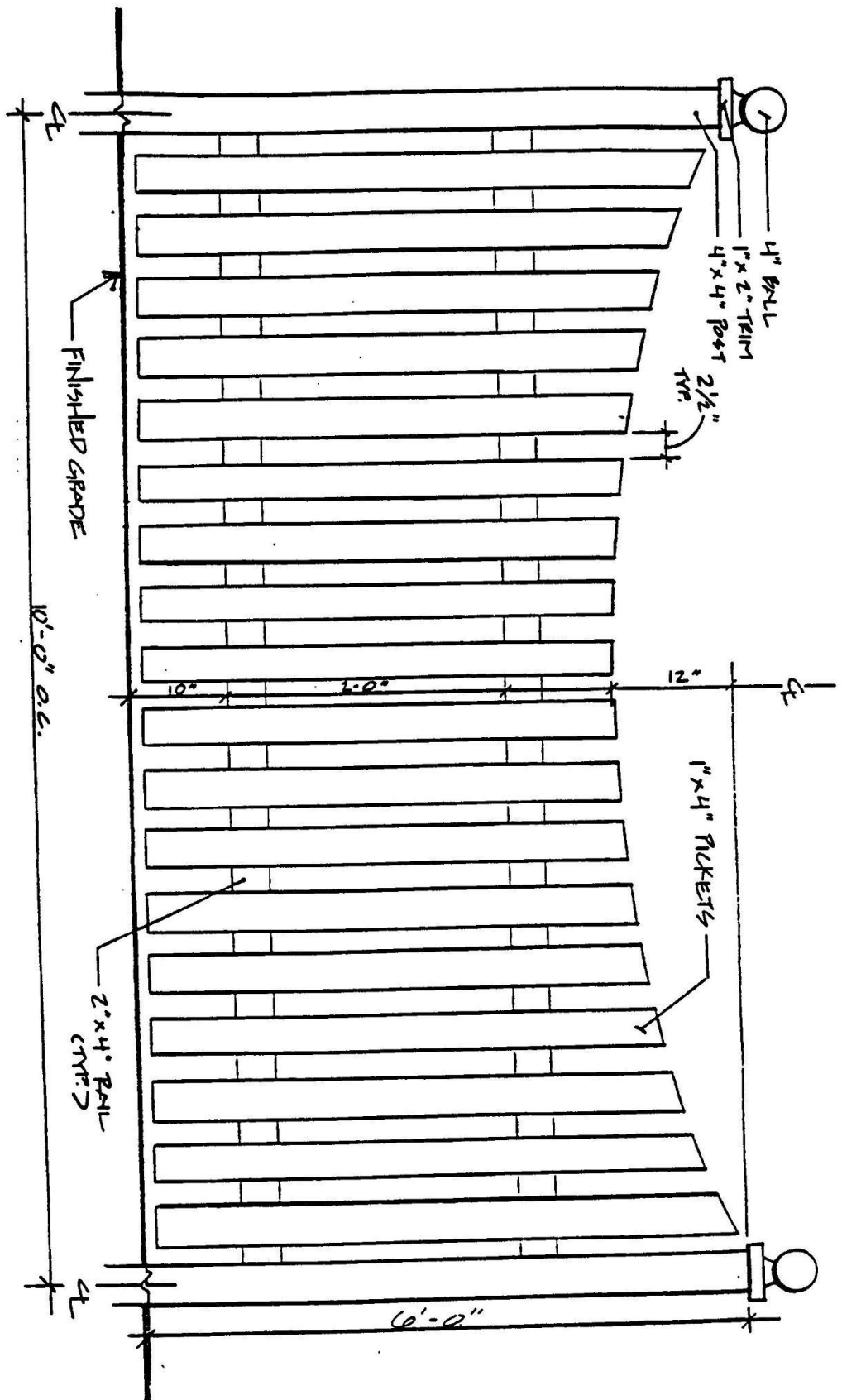
FENCE DETAIL, 'C'

NOT TO SCALE



FENCE DETAIL 'B'

NOT TO SCALE



FENCE DETAIL 'A'
NOT TO SCALE

BY-LAWS

ARTICLE I

Name and Location

Section 1. Name and Location. The name of this Association is as follows: The Glens at Powers Ferry Homeowners Association, Inc.

Its principal office and mailing address is initially located at: c/o Pulte Home Corporation, 3100 Breckinridge Boulevard, Suite 712, Duluth, Georgia 30136.

ARTICLE II

Definitions

Section 1. Declarant. "Declarant", as used herein, shall have the same meaning as that expression is defined to have in the Declaration.

Section 2. The Project. The "Project", as used herein, means that certain community being developed by the Declarant in Cobb County, Georgia known as The Glens at Powers Ferry Subdivision.

Section 3. Declaration. "Declaration", as used herein, means that certain Declaration of Covenants and Restrictions for The Glens at Powers Ferry Homeowners Association, Inc. to be recorded by Declarant in the real property records of Cobb County, Georgia.

Section 4. Mortgagee. "Mortgagee", as used herein, means the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed to secure debt encumbering one or more of the Units. "Mortgage", as used herein, shall include Deed to Secure Debt. "First Mortgage", as used herein, shall mean a Mortgage with priority over other Mortgages. As used in these By-Laws, the term "Mortgagee" shall mean any Mortgagee and shall not be limited to Institutional Mortgagees. As used in these By-Laws, the term "Institutional Mortgagee" or "Institutional Holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, mutual savings banks, credit unions, trusts, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations, and any agency or department of the United States Government or of any state or municipal government. As used in these By-Laws, the term "Holder" or "Mortgagee" shall include the parties secured by any deed of trust or any beneficiary thereof.

Section 5. Other Definitions. Unless it is plainly evident from the context that a different meaning is intended, all other terms used herein shall have the same meaning as they are defined to have in the Declaration.

ARTICLE III Membership

Section 1. Membership. The Association shall have two (2) classes of voting membership which shall be known as "Class A" and "Class B":

(a) With the exception of the Declarant, every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, which is a record owner of a fee interest in any Unit which is part of the premises described in the Declaration, or which otherwise becomes subject by the covenants set forth in the Declaration to assessments by the Association, shall be a Class A Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity which holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. Each Class A Member shall be entitled to one (1) vote for each Unit in which such Member holds the interest required for Class A membership.

(b) The Class B Member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, which shall obtain any Class B membership by specific assignment from the Declarant. The Class B Member or Members shall have one (1) Class B membership for each Unit in which such Member holds the interest otherwise required for Class A membership. Each Class B Member shall be entitled to three (3) votes for each Class B membership which it holds. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

- (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (ii) on August 1, 2005.

Upon the lapse or surrender of any of the Class B memberships as provided for in this Article, the Declarant shall thereafter remain a Class A Member of the Association as to each and every Unit in which the Declarant then holds the interest otherwise required for such Class A membership.

The Members of the Association shall have no preemptive rights, as such Members, to acquire any memberships of this Association that may at any time be issued by the Association except as may be specifically provided in this Article.

Section 2. Membership Certificates. In the event the Board of Directors considers it necessary or appropriate to issue membership certificates or the like, then each such membership certificate shall state that the Association is organized under the laws of the State of Georgia, the name of the registered holder or holders of the membership represented thereby, and shall be in such form as shall be approved by the Board of Directors. Membership certificates shall be consecutively numbered, bound in one or more books, and shall be issued there from upon certification as to the

transfer of title to the Unit to which such membership is appurtenant. Every membership certificate shall be signed by the President or a Vice President and the Secretary or an Assistant Secretary and shall be sealed with the corporate seal. Such signatures and seal may be original or facsimile.

Section 3. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates previously issued by the Association and alleged to have been destroyed or lost, upon the making of an affidavit of the fact by the person claiming the membership certificate to be lost or destroyed. When authorizing such issuance of a new certificate or certificates, the Board of Directors may, in its discretion, and as a condition precedent to the issuance thereof, require the registered Holder or Holders of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Board of Directors shall require and to give the Association a bond in such sum as the Board of Directors may require as indemnity against any claim that may be made against the Association on account of the issuance of such new certificate.

Section 4. Liquidation Rights. In the event of any voluntary or involuntary dissolution of the Association, each Class A Member of the Association shall be entitled to receive out of the assets of the Association available for distribution to the Members an amount equal to that proportion of such assets which the number of Class A memberships held by such Member bears to the total number of Class A memberships of the Association then issued and outstanding. If the Association is dissolved, all assets of the Association shall be dedicated to a public body or conveyed to a non-profit organization, to be used for a similar purpose.

ARTICLE IV Meeting of Members

Section 1. Place of Meeting. Meetings of the Members shall be held at the principal office or place of business of the Association or at such other suitable place within the State of Georgia which is reasonably convenient to the memberships and as may from time to time be designated by the Board of Directors.

Section 2. Annual Meetings. The first annual meeting of the Members of the Association shall be held at such time and place as may be designated by the Board of Directors; provided, however, that the first annual meeting of Members shall be held within one (1) year from the date of filing of the Articles of Incorporation of the Association with the Secretary of State. Thereafter, the annual meetings of the Members shall be held during the month of June of each succeeding year. At such meeting there shall be elected by ballot of the Members a Board of Directors in accordance with the requirements of Article V of these By-Laws. The Members may also transact such other business as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the Members as directed by resolution of the Board of Directors or upon a petition signed by at least twenty (20%) percent of each class of the then Members, having been presented to the Secretary; provided, however, that no special meetings shall be called, except upon resolution of the Board

of Directors, prior to the first annual meeting of Members as hereinabove provided for. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meeting. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Member of record, at his address as it appears on the membership books of the Association or, if no such address appears, at his last known place of address, at least ten (10) but not more than ninety (90) days prior to such meeting. Notice by either such method shall be considered as notice served. Attendance by a Member at any meeting of the Members shall be a waiver of notice by him of the time, place and purpose thereof. Notice of any annual or special meeting of the Members of the Association may also be waived by any Member either prior to, at, or after any such meeting.

Section 5. Roster of Membership. The Board of Directors of the Association shall maintain a current roster of the names and addresses of each Member to which written notice of meetings of the Members of the Association shall be delivered or mailed. Each Unit Owner shall furnish the Board of Directors with his name and current mailing address.

Section 6. Quorum. The presence, either in person or by proxy, of Members representing at least fifty-one (51%) percent of the then Members of record, shall be requisite for, and shall constitute a quorum for the transaction of business of all meeting of Members. If the number of Members at a meeting drops below the quorum and the question of a lack of a quorum is raised, no business may thereafter be transacted.

Section 7. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may, except as otherwise provided by law, adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 8. Voting. At every meeting of the Members, each Class A Member shall have the right to cast one (1) vote for each Class A membership which he owns on each question. Each Class B Member shall have the right to cast three (3) votes for each Class B membership which he owns on each question. The vote of the Members representing fifty-one (51%) percent of the total of votes of the membership present at the meeting, in person or by proxy, calculated as aforesaid, shall be necessary to decide any question brought before such meeting unless the question is one upon which, by the express provision of law or of the Articles of Incorporation, or of the Declaration or of these By-Laws, a different vote is required, in which case such express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any of them present at any meeting unless any objection or protest by any other owner of such membership is noted at such meeting. In the event all of the Co-Owners of any membership who are present at any meeting of the Members are unable to agree on the manner in which the votes for such membership shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question. In the event any membership is owned by a corporation, then the vote for any such membership shall be cast by a person designated in a

certificate signed by the President or any Vice President of such corporation and attested by the Secretary or an Assistant Secretary of such corporation and filed with the Secretary or an Assistant Secretary of the Association, prior to or during the meeting. Any such certificate shall remain valid until revoked or superseded in writing. The vote for any membership which is owned by a trust or partnership may be exercised by any trustee or partner thereof, as the case may be, and, unless any objection or protest by any other such trustee or partner is noted at such meeting, the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes. No Class A Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

Whenever in these By-Laws any action is required to be taken by a specified percentage of "each class of the then Members" of the Association, then such action shall be required to be taken separately by the specified percentage of the votes of the then outstanding Class A Members of the Association and the specified percentage of the votes of the then outstanding Class B Members of the Association. Whenever in these By-Laws any action is required to be taken by a specified percentage of "both classes of the then Members" of the Association, then such action shall be required to be taken by a specified percentage of the votes of the then outstanding cumulative membership of the Association.

Section 9. Proxies. A Member may appoint any other Member or the Declarant as his proxy. In no case may any Member (except the Declarant) cast more than one (1) vote by proxy in addition to his own vote. Any proxy must be in writing and must be filed with the Secretary in form approved by the Board of Directors before the appointed time of each meeting. Unless limited by its terms, any proxy shall continue until revoked by a written notice of revocation filed with the Secretary or by the death of the Member; provided, however, that no proxy shall be effective for a period in excess of one hundred eighty (180) days unless granted to a Mortgagee or lessee of the Unit to which the votes are appurtenant.

Section 10. Right of Mortgagees. Any Institutional Mortgagee of any Unit who desires notice of the annual and special meetings of the Members shall notify the Secretary to that effect by Registered Mail - Return Receipt Requested. Any such notice shall contain the name and post office address of such Institutional Mortgagee and the name of the person to whom notice of the annual and special meeting of the Members should be addressed. The Secretary of the Association shall maintain a roster of all Institutional Mortgagees from whom such notices are received, and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each annual or special meeting of the Members to each such Institutional Mortgagee, in the same manner, and subject to the same requirements and limitations as are otherwise provided in this Article for notice to the Members. Any such Institutional Mortgagee shall be entitled to designate a representative to attend any annual or special meeting of the Members, and such representative may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the Members present at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Members upon request made in writing to the Secretary.

Section 11. Order of Business. The order of business at all regularly scheduled meetings of the Members shall be as follows:

- (a) Roll call and certificate of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of minutes of preceding meeting, if any.
- (d) Reports of officers, if any.
- (e) Reports of committees, if any.
- (f) Unfinished business.
- (g) New business.
- (h) Election or appointment of inspectors of election.
- (i) Election of directors.
- (j) Adjournment.

In the case of special meetings, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of the meeting.

Section 12. Rules of Order and Procedure. The rules of order and all other matters of procedure at all annual and special meetings of the Members shall be determined by the Chairman of such meeting.

Section 13. Inspectors of Election. The Board of Directors may, in advance of any annual or special meeting of the Members, appoint an uneven number of one or more inspectors of election to act at the meeting and at any Adjournment thereof. In the event inspectors are not so appointed, the Chairman of any annual or special meeting of Members shall appoint such inspectors of election. Each inspector so appointed, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector of election at such meeting. The oath so taken shall be filed with the Secretary of the Association. No officer or Director of the Association shall act as an inspector of election at any meeting of the Members if one of the purposes of such meeting is to elect Directors.

ARTICLE V Directors

Section 1. Number and Qualifications. The affairs of the Association shall be governed by the Board of Directors composed of an uneven number of at least three (3) natural persons and not more than nine (9) natural persons, a majority of whom (after the lapse of all of the Class B Memberships, either as originally created or as established pursuant to the annexation of all or a part of the Additional Property, as provided in these By-Laws) shall be Members of the Association.

Prior to the lapse of all the Class B memberships as provided in these By-Laws, the number of Directors shall be determined, from time to time, by a vote of the initial Directors hereinafter named. Thereafter, the number of Directors may be changed by a vote of the Members at any

subsequent annual or special meeting of the Members; provided, however, that (a) the limitations of this Section shall continue to apply; and (b) no such change shall operate to curtail or extend the term of any incumbent Director.

Section 2. Initial Directors. The initial Directors shall be selected by the Declarant and need not be Members of the Association. The names of the Directors who shall act as such from the date upon which the Articles of Incorporation of the Association are accepted for record by the Georgia Secretary of State, and until the first annual meeting of the Members or until such time as their successors are duly chosen and qualified, whichever shall last occur, are as set forth in the Articles of Incorporation of the Association.

Section 3. Powers and Duties. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by the Declaration or these By-Laws directed to be exercised and done by the Members. The powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

To provide for the:

(a) care, upkeep and surveillance of the Subdivision Improvements and services in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(b) establishment, collection, use and expenditure of assessments and carrying charges from the Members and for the assessment, the filing and enforcement of liens therefore in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(c) promulgation and enforcement of such rules and regulations and such restrictions on or requirements as may be deemed proper respecting the use, occupancy and maintenance of the Subdivision Improvements as are designated to prevent unreasonable interference with the use of the Subdivision Improvements by the Members and others, all of which shall be consistent with law and the provisions of these By-Laws and the Declaration; and

(d) authorization, in their discretion, of the payment of patronage refunds from residual receipts when and as reflected in the annual report; and

(e) to purchase such policies of insurance as shall from time to time be considered appropriate by the Board of Directors including, without limitation, casualty insurance, public liability insurance, workmen's compensation insurance to the extent necessary to comply with any applicable law, so-called "legal expense indemnity insurance" affording protection for the officers and Directors of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim or cause of action to which any such officer or Director shall have been made a party by reason of his or her service as such, fidelity coverage and the like; and

(f) to repair, restore or reconstruct all or any part of the Subdivision Improvements after any casualty loss in a manner consistent with law and the provisions of these By-Laws and to otherwise improve the common areas and community facilities; and

(g) to lease, grant licenses, easements, rights-of-way and other rights of use in all or any part of the common areas and community facilities; and

(h) to purchase Units and to lease, Mortgage or convey the same, subject to the provisions of these By-Laws and the Declaration; and

(i) to appoint the Members of the Architectural and Environmental Control Committee provided for in the Declaration and to appoint the Members of such other committees as the Board of Directors may from time to time designate.

Section 4. Election and Term of Office. The term of the Directors named herein shall expire when their successors have been elected at the first annual meeting of Members and are duly qualified. The election of Directors shall be by secret written ballot, unless balloting is dispensed with by the unanimous consent of the Members present at any meeting, in person or by proxy. There shall be no cumulative voting. At the first annual meeting of the Members, the term of office of the Director receiving the greatest number of votes shall be fixed for three (3) years. The term of office of the Director receiving the second greatest number of votes shall be fixed for two (2) years, and the term of the office of the other Director or Directors shall be fixed for one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. In the alternative, the membership may, by resolution duly made and adopted at the first annual meeting, resolve to fix the term for each Director elected at any such meeting at one (1) year. Directors shall hold office until their successors have been elected and hold their first regular meeting.

Section 5. Resignation and Removal of Directors. Any Director may resign at any time upon written notice to the Board of Directors. At an annual meeting of Members, or at any special meeting duly called for such purpose (but only after the lapse of all of the Class B memberships as provided in these By-Laws), any Director may be removed with or without cause by the affirmative vote of the majority of the votes of the Members present and voting, in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. The term of any Director who is a Class A Member of the Association and who becomes more than sixty (60) days delinquent in payment of any assessments or carrying charges due the Association may be terminated by resolution of the remaining Directors, and the remaining Directors shall appoint his successor as provided in this Article.

Section 6. Compensation. No compensation shall be paid to Directors for their services as Directors. After the first annual meeting of the Members, no remuneration shall be paid to any Director who is also a Member for services performed by him for the Association in any other capacity unless a resolution authorizing such remuneration shall have also been adopted by the Board of Directors before such services are undertaken. Directors may be reimbursed for their actual out-of-pocket expenses necessarily incurred in connection with their services as Directors.

Section 7. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors

in order legally to constitute such meeting, provided a majority of the whole Board of Directors shall be present at such first meeting.

Section 8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least six (6) days prior to the day named for such meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice of each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least one-half (1/2) of the Directors.

Section 10. Waiver of Notice. Before, at or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 11. Quorum. At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at any meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 12. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the Members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

Section 13. Rights of Mortgagees. Any Institutional Mortgagee of any lot who desires notice of the regular and special meetings of the Board of Directors shall notify the Secretary to that effect by Registered Mail - Return Receipt Requested. Any such notice shall contain the name and post office address of such Institutional Mortgagee and the name of the person to whom notice of the regular and special meetings of the Board of Directors should be addressed. The Secretary of the Association shall maintain a roster of all Institutional Mortgagees from whom such notices are received, and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each regular or special meeting of the Board of Directors to each such Institutional Mortgagee, in the same manner, and subject to the same requirements and limitations, as are otherwise provided in this Article for notice to the Members of the Board of Directors. Any such Institutional Mortgagee shall be entitled to designate a representative to attend any regular or

special meeting of the Board of Directors, and such representatives may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the Members of the Board of Directors present at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Board of Directors upon request made in writing to the Secretary.

Section 14. Fidelity Bonds. With the exception of the initial officers and directors set forth in the Articles of Incorporation, the Board of Directors shall require that all officers, Directors and employees of the Association regularly handling or otherwise responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty. The premiums on such bond or insurance shall be paid by the Association.

ARTICLE VI Officers

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by a Board of Directors. Prior to the lapse of all the Class B memberships as provided in these By-Laws, the officers of the Association need not be Members of the Association. Thereafter, except for the President, the officers of the Association need not be Members of the Association. The Board of Directors may appoint an assistant secretary and an assistant treasurer and such other officers as in their judgment may be necessary. The offices of Secretary and Treasurer may be filled by the same person.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board of Directors.

Section 3. Resignation - Removal of Officers. Any officer may resign at any time upon written notice to the Board of Directors. Upon an affirmative vote of a majority of the Members of the Board of Directors, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board of Directors called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of a corporation.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other Member of the Board to do so on an interim basis. The Vice President shall also assist the President generally and shall perform such other duties as shall from time to time be delegated to him by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Members of the Association. The Secretary shall give notice of all annual and special meetings to the Members of the Association in conformity

with the requirements of these By-Laws. The Secretary shall have custody of the seal of the Association, if any. The Secretary shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may direct and he shall, in general, perform all of the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for funds and securities of the Association and shall be responsible for keeping, or causing to be kept, full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for causing the deposit of all monies and other valuable effects in the name, and to the credit of the Association, in such depositories as may from time to time be designated by the Board of Directors.

ARTICLE VII

Fiscal Management

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association, which shall begin on the date when the Articles of Incorporation of the Association are accepted for record by the Georgia Secretary of State. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should the practice of the Association subsequently dictate.

Section 2. Principal Office - Change of Same. The principal office of the Association shall be as set forth in Article I of the By-Laws. The Board of Directors, by appropriate resolution, shall have the authority to change the location of the principal office of the Association from time to time.

Section 3. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and expenditures and other transactions of the Association and its administration and shall specify the maintenance and repair expenses of the common areas and community facilities, services required or provided with respect to the same, and any other expenses incurred by the Association. The amount of any assessment or portion of any assessment, required for payment of any capital expenditures or reserves of the Association, may be credited upon the books of the Association to the "Paid-in-Surplus" account as a capital contribution by the Members.

Section 4. Auditing. At the close of each fiscal year, the books and records of the Association shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards, consistently applied. Based upon such report, the Association shall furnish the Members and any Mortgagee requesting the same with an annual financial statement, including the income and disbursements of the Association, within ninety (90) days following the end of each fiscal year.

Section 5. Inspection of Books. The books and accounts of the Association, vouchers accrediting the entries made thereupon, and all other records maintained by the Association shall be available for examination by the Members and their duly authorized agents or attorneys, and to the

Institutional Holder of any First Mortgage on any Unit and its and their duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice.

Section 6. Execution of Corporate Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or a Vice President, and all checks shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time so authorized by the Board of Directors.

Section 7. Seal. The Board of Directors may provide a suitable corporate seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

ARTICLE VIII Amendment

Section 1. Amendments. Subject to the other limitations set forth in these By-Laws, these By-Laws may be amended by the affirmative vote of Members representing two-thirds (2/3) of the then Members of record at any meeting of the Members duly called for such purpose in accordance with the provisions and requirements of these By-Laws.

Section 2. Proposal of Amendments. Amendments to these By-Laws may be proposed by the Board of Directors of the Association or by petition signed by at least twenty-five (25%) percent of the total vote of the Members, which petition shall be delivered to the Secretary. A description of any proposed amendment shall accompany the notice of any annual or special meeting of the Members at which such proposed amendment is to be considered and voted upon.

ARTICLE IX Mortgages - Notice - Other Rights of Mortgagees - FHA - Veterans Administration

Section 1. Notice to Board of Directors. Any Owner of any Unit in the project who Mortgages such Unit shall promptly notify the Board of Directors of the name and address of his Mortgagee and, if requested so to do, shall file a conformed copy of such Mortgage with the Board of Directors. The Board of Directors shall maintain a suitable roster pertaining to such Mortgages.

Section 2. Consents. Any other provision of these By-Laws or of the Declaration to the contrary notwithstanding, neither the Members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of the Institutional Holders of all First Mortgages of record on the Units:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the Subdivision Improvements; provided, however, that the granting of rights-of-way, easements and the like for

public utilities or for other purposes consistent with the use of the Subdivision Improvements by the Members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(c) modify the method of determining and collecting common expense assessments or other assessments as provided for in the Declaration; or

(d) resolve to use the proceeds of casualty insurance for any purpose other than the repair, replacement or reconstruction of the Subdivision Improvements; or

(e) modify or amend any material or substantive provision of the Declaration or these By-Laws.

Section 3. Casualty Losses. In the event of damage or destruction to the Subdivision Improvements, if any, by fire or other casualty, the same shall be promptly repaired, replaced or reconstructed in substantial conformity with the original plans and specifications for the Subdivision Improvements with the proceeds of insurance available for that purpose. In the event that the proceeds of insurance are not sufficient to repair damage or destruction of the Subdivision Improvements caused by fire or other casualty or, in the event such damage or destruction is caused by any casualty not insured against, then and in either of those events, upon resolution of the Board of Directors, the repair, replacement or reconstruction of the damage shall be accomplished promptly by the Association at its common expense. The Association shall not use the proceeds of casualty insurance received as a result of damage or destruction of the Subdivision Improvements for purposes other than the repair, replacement or reconstruction of the Subdivision Improvements without the prior written consent and approval of the Institutional Holders of all First Mortgages of record on the Units.

In the event of substantial damage or destruction to any part of the Subdivision Improvements, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the Holders of all First Mortgages of record on the Units. No provision of these By-Laws shall entitle any Member of the Association to any priority over the Holder of any First Mortgage on his Unit with respect to the distribution to such Member of any insurance proceeds paid or payable on account of any damage or destruction of any of the Subdivision Improvements.

Section 4. Condemnation or Eminent Domain. In the event any portion of the Subdivision Improvements is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the Holders of all First Mortgages on the Units. No provision of these By-Laws shall entitle any Member of the Association to any priority over the Holder of any First Mortgage on his Unit with respect to the distribution of such Member of the proceeds of any condemnation award or settlement relating to a taking of any of the Subdivision Improvements.

Section 5. Veterans Administration. Federal Housing Administration and Federal National Mortgage Association. Provided that any Unit in the project is then encumbered by a Mortgage which is insured by the Veterans Administration, Federal Housing Administration, or by the Federal National Mortgage Association, and, provided further that there are then Class B memberships of the Association outstanding, neither the Members, the Board of Directors nor the Association, shall by act or omission, take any of the following actions without the prior written consent and approval of the above-mentioned institution or institutions insuring Mortgages on any Units:

(a) abandon, partition, subdivide, encumber, sell or transfer any of the Subdivision Improvements; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Subdivision Improvements by the Members of the Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(c) modify or amend any material or substantive provisions of the Declaration or these By-Laws.

ARTICLE X

Interpretation - Miscellaneous

Section 1. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles of Incorporation of the Association. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these By-Laws and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 2. Notices. Unless another type of notice is herein elsewhere or by law specifically provided for, any and all notices called for in these By-Laws shall be given in writing.

Section 3. Severability. In the event any provision or provisions of these By-Laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provision hereof which can be given effect.

Section 4. Waiver. No restriction, condition, obligation or provisions of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 5. Captions. The captions contained in these By-Laws are for convenience only and are not a part of these By-Laws.