

UPON RECORDING RETURN TO:  
Steven M. Winter  
WEINSTOCK & SCAVO, P.C.  
3405 Piedmont Road, N.E.  
Suite 300  
Atlanta, Georgia 30305

CROSS REFERENCE: Deed Book: 18415  
Page: 141

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AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE RIDGE

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THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION PURSUANT TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. 44-3-220, *ET SEQ.*

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AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE RIDGE

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made by The Ridge Club, Inc., (hereinafter called the "Association"), and the Owners of Lots within the Subdivision, as those terms are hereinafter defined.

W I T N E S S E T H

**WHEREAS, Jim Cowart, Inc.**, a Georgia corporation (hereinafter referred to as the "Original Declarant"), executed that certain Declaration of Covenants, Conditions and Restrictions, dated June 29, 1994, as recorded in Deed Book 18415, Page 141, Fulton County records (hereinafter as supplemented and amended from time to time the "Original Declaration"), as amended by that certain First Modification to the Declaration recorded in Deed Book 18825, Page 70 which added Exhibits to the Declaration and changed the Design Review Board, a Second Modification to Declaration annexing property, recorded in Deed Book 18874, page 273, a Third Modification to Declaration annexing property, recorded in Deed Book 19201, Page 170, a fourth document also labeled Third Modification to Declaration, which changed the definition of the fiscal year, recorded in Deed Book 19450, Page 56, a Fourth Amendment to the Declaration annexing property, recorded in Deed Book 22330, Page 74, a Fifth Amendment to Declaration annexing property, recorded in Deed Book 25185, page 235 and a Sixth Amendment to Declaration annexing property, recorded in Deed Book 25627, page 001, in Fulton County records (hereinafter referred to collectively as the "Declaration");

**WHEREAS**, the Association is a non-profit corporation organized under the Georgia Nonprofit Code to be the Association named in the Original Declaration to have the power and authority set forth therein; and,

**WHEREAS**, the Association and Owners desire to amend the Original Declaration as set forth herein and intend for this Declaration to be prospective only; and

**WHEREAS**, pursuant to Section 12.04 of Article XII of the Declaration, the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners representing a Majority of the total Association vote entitled to vote thereon, and, so long as Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article IX, consent of the Declarant

**WHEREAS**, a Declaration of Conversion Date was recorded in Deed Book 30031, page 548 providing that, as of December 31, 2000, the Declarant had sold 100% of the Lots comprising the Property; and

**WHEREAS**, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states unequivocally that the consent of the required Owners to which a Majority of the total Association vote that is entitled to vote thereon was lawfully obtained; and

**WHEREAS**, the Association and the Owners desire to submit the Subdivision to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.*, as the same is in effect on the date of recording hereof and the terms and conditions hereinafter set out;

**NOW, THEREFORE**, the undersigned hereby adopt this Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Ridge, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, sold, transferred, conveyed, used, occupied, mortgaged and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, hereinafter set forth, which are for protecting the value and desirability of and which shall run with the title to, the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof, as follows:

Article 1  
Definitions

The following words, when used in this Declaration or in any Supplementary Declaration, shall have the following meanings:

1.1 "Articles of Incorporation" means the Articles of Incorporation of The Ridge Club, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference and as may be amended from time to time.

1.2 "Association" means The Ridge Club, Inc., a Georgia nonprofit, nonstock, membership corporation incorporated under the laws of the State of Georgia, and its successors and assigns.

1.3 "Association Property" means all areas not contained in numbered lots and dedicated roadways on any plat of The Ridge, including, without limitation, the Common Areas and the Scenic and Pedestrian Easements as defined in Section 3.3 of this Declaration.

1.4 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. §14-3-101, *et seq.*

1.5 "By-Laws" means the By-Laws of The Ridge Club, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference and as may be amended from time to time.

1.6 "Common Areas" and "Common Property" mean all areas neither contained in numbered lots nor dedicated to a governmental authority on any plat of The Ridge, and includes without limitation the recreational facility for the Community, containing either or both a swimming pool and tennis courts, and any Easement Area over one or more Lots created for the entryway to the Community.

1.7 "Community-Wide Standard" means the standard of conduct, maintenance or other activity generally prevailing in The Ridge. Such standard may be more specifically determined by the Board of Directors of the Association.

1.8 "Improvements" shall mean, with respect to any Lot or any Common Property, Buildings, underground installations, slope alterations, roads, driveways, parking areas, fences, screening walls, landscaping, lighting, signage, excavation fill, ditches, diversions, dams, berms or any other thing or device that alters flow of any water in any natural or artificial drainage channel from or upon any other Lot, and all other structures, improvements or landscaping materials of any kind and type.

1.9 "Lot" means any plot of land within the Subdivision, whether or not improvements are constructed thereon which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of the county where the Subdivision is located. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, all of the rights and interests of an Owner in the Common Property, as herein provided, together with membership in the Association.

1.10 "Mortgage" means any and all instruments used for the purpose of encumbering real property in the Subdivision as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of trust.

1.11 "Mortgagee" means the holder of a Mortgage.

1.12 "Occupant" means any Person occupying all or any portion of a Lot or other property located within the Subdivision for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.13 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Subdivision, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.14 "Person" includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock

company, joint venture, association, company or other organization, recognized as a separate legal entity under Georgia law.

1.15 "Subdivision" refers to The Ridge located in Fulton County, Georgia as shown on the subdivision plats for The Ridge recorded with the Clerk of the Superior Court of Fulton County, Georgia; said plats are described on Exhibit "B" hereof and by this reference are incorporated herein and made a part hereof.

1.16 "Total Association Vote" means the votes attributable to the entire membership of the Association as of the record date for such action, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

## Article 2

### Property Subject to this Declaration; Additions

2.1 Existing Property. The real property which is and shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration and is more particularly described on Exhibit "B" attached hereto and by this reference incorporated herein.

## Article 3

### Property Rights; Easements

3.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded subdivision plat(s) for the Subdivision, as amended from time to time as well as the easements now or hereafter established by the Association in this Declaration or by any other documents recorded in the Office of the Clerk of Superior Court of Fulton County, Georgia.

3.2 Owners' Easements of Enjoyment; Exceptions. Every Lot Owner shall have a right and easement of enjoyment including, without limitation, the right of vehicular and pedestrian ingress and egress, in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot. This right and easement shall also be deemed granted to the Association and the Lot Owners' families, guests, invitees, servants, employees, tenants and grantees. The right of enjoyment is subject to the following provisions:

(a) The right of the Association to suspend the voting rights and the accompanying rights of use of the Association Property (including, without limitation the Common Areas and/or recreational facilities) of an Owner (except those portions of the Association Property that provide access to and from the Lot of said Owner) for any period during which any assessment against the Owner's Lot remains unpaid, and for a period of time designated by the Board of Directors for any infraction of its published rules and regulations;

(b) The right of the Association to dedicate or transfer all or any part of the common areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors, and as may be otherwise permitted under existing law and/or governmental regulations; provided, however, that the Lot Owners' easements of ingress and egress and any public utility easements previously established shall not



be affected. The Board of Directors may dedicate utility, service, or drainage (storm water or otherwise) or water retention pond easements upon, through or under the Common Areas at its sole discretion;

(c) The right of the Board (i) to charge reasonable admission and other fees for the use of any portion of any Common Property (including, without limitation, swimming pools, and tennis facilities) or limit the number of guests who may use the Common Property, (ii) to allow persons who are not Owners, such as persons living or working in the vicinity of the community, to use the Common Property on a regular or temporary basis and to charge or not charge a user fee therefore, and (iii) to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests, Occupants, and invitees;

(d) The rights and easements set forth in this Declaration for the benefit of the Association, its directors, officers, agents and employees;

(e) The rights of the holder (and its successors and assigns) of any mortgage which is prior in right or superior to the rights, interests, options, licenses, easements, and privileges herein reserved or established;

(f) all other rights of the Association, Owners and Occupants set forth in this Declaration or in any deed conveying Association Property to the Association; and

(g) all encumbrances and other matters shown by the public records affecting title to the Association Property.

3.3 Association's Right of Entry. The authorized representative of the Association or its Board of Directors shall be entitled to reasonable access to the individual Lots as may be required in connection with:

- (i) the preservation of property on an individual Lot;
- (ii) in the event of an emergency;
- (iii) the maintenance, repairs or replacements of any equipment, facilities or fixtures affecting or serving other Lots or the Association Property; or
- (iv) to make any alteration required by any governmental authority.

After any such entry, however, the Association shall repair any damage caused to the Lot.

3.4 Damage or Destruction of Association Property. All damage that shall occur to any improvements located on any Association Property on account of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any such casualty as is reasonably practicable. All repairs to any improvements located on the Association Property shall be made in accordance with plans and specifications that shall be approved for the same by the Board of Directors of the Association.

3.5 Transfer or Encumbrance. The right of the Board to dedicate or transfer all or any portion of the Association Property, if any. Except as hereinafter otherwise provided, no such

dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Owners representing a Majority of the total Association vote;

3.6 Partition. The Association Property shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Subdivision and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Subdivision.

3.7 Condemnation. In the event of a taking by eminent domain of any portion of the Association Property on which improvements have been constructed, the Association shall restore or replace such improvements so taken on the remaining Association Property, unless within 60 days after such taking, an alternative plan is approved by at least seventy-five (75%) of the Total Association Vote. The provisions of this Declaration applicable to replacement or restoration of damaged improvements on the Association Property shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

3.8 Liability. Owners, Occupants and their guests shall use the Association Property at their own risk and shall assume sole responsibility for their personal belongings used or stored on the Association Property. The Association and its respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on the Association Property.

3.9 Delegation of Use. Subject to the terms and provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors, every Owner may delegate, in accordance with the By-Laws, his right of use and enjoyment in and to the Association Property and the improvements thereon, if any, to the members of his family or his tenants.

#### Article 4

#### Maintenance of Lots and Association Property

4.1 Maintenance of Lots. The Association shall provide, for each Lot on which a single-family residence has been completed, lawn and yard maintenance in accordance with Community-Wide Standards or standards established by the Board. In order to maintain properly the Community-Wide-Standard, it is essential that the yards and lawns of all Lots be maintained in a neat and consistent manner. Accordingly, each Owner shall be unconditionally obligated to allow the Association to provide the lawn and yard maintenance contemplated by this section. The foregoing maintenance costs shall be assessed as a part of the General Assessment, or Specific Assessments, as determined by the Board in accordance with this Declaration. The Owner of each Lot shall be obligated to maintain and repair the entirety of his Lot, in a clean, safe and attractive condition. This maintenance includes, without limitation, any improvements or structures situated thereon. Such maintenance and repair work shall be performed at the sole cost and expense of the Owner of such Lot. All exteriors of all improvements or structures located on a Lot shall be maintained in a condition that is in

accordance with the Community-Wide Standard. In no event shall any change be made in the exterior appearance of any improvement or structure located on any Lot (including, without limitation, painting and the application of any brick, stucco, paneling or other siding), unless such change has been first approved in writing by the Board of Directors, pursuant to the provisions of Article 7.

4.2 Failure of Maintenance by Owners. In the event that the Owner of any Lot shall fail to maintain any portion of such Lot, including, without limitation, any improvements or structures situated thereon, as required under the terms and provisions of this Article 4, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner and the Lot as a specific assessment.

4.3 Maintenance of Association Property. The Association shall be responsible for the maintenance and repair of all Association Property including, but not limited to, all open spaces, entranceways, streets, medians, streetlights, walls, crosswalks, sidewalks, storm drains, basins, lakes, detention ponds, landscaping and any recreational facilities located in the Association Property. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Subdivision and to enter into easements and covenants to share costs agreements regarding such property, where the Board has determined that such maintenance would benefit the Owners. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment. All maintenance by the Association shall be performed consistent with the Community-Wide Standard. The Association shall not be liable for injury or damage to Person or property: (x) caused by the elements to an Owner or any other Person; (y) resulting from rain or other surface water which may leak or flow from any portion of the Association Property; or (z) caused by any street, pipe, plumbing, drain, lake, dam, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. The Association shall also be responsible and liable for the prompt payment of any and all taxes imposed by any governmental agency upon the Association Property.

Article 5  
Association Membership and Voting Rights

5.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the spouse of a member, but in no event shall more than one office be held for each Lot owned. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. The membership of a Person in the Association shall terminate automatically whenever such Person ceases to be an Owner. Such termination shall not release or relieve any such Person from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership nor will it impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

5.2 Voting. Members shall be entitled to one vote for each Lot owned. When more than one Person holds an ownership interest in a Lot, the vote for such Lot shall be cast only in accordance with their unanimous agreement. Such consent shall be conclusively presumed if any one of them purports to cast the vote pertaining to that Lot without protest being made immediately by any of the others to the person presiding over the meeting.

5.3 Compliance with Provisions of Declaration and Rules and Regulations Promulgated by the Board of Directors. Every Owner and all those entitled to occupy a Lot shall comply with (a) all lawful provisions of this Declaration, (b) any reasonable rules or regulations adopted by the Board of Directors, pursuant to the Declaration, which have been provided to the Owners and (c) the lawful provisions of the By-Laws and the Articles of Incorporation. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in any proper case, by one or more aggrieved Owners on their own behalf or as a class action. In order to enforce such compliance, the Association shall have the authority to impose and assess fines, and to temporarily suspend voting rights, the right of use of the Association Property (except for the right to use the Association Property for access to and from the Lot owned by such member) and to terminate services paid for as a common expense. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the member's property in favor of the Association.

A Member of the Association shall be considered to be a Member in Good Standing and eligible to vote if such Member has, within ten (10) days prior to taking any vote by the Association, fully paid all assessments or other charges levied by the Association then due and payable, as such assessments or charges are provided in Article 6. A Member will not be permitted to vote if there is a lien filed by the Association for outstanding amounts due against

his or her Lot. The Board shall have sole authority for determining the good standing status of any Member at any time and shall make such determination with respect to all Members prior to a vote being taken by the Association on any manner. If the Board shall determine, in its own judgment, that extenuating circumstances exist which have prevented prior payment, the Board shall have the right and authority, in its sole discretion, to waive the ten-day prior payment requirement and require only that such payment be made at any time before such vote is taken.

5.4 Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of the Association, or any part thereof, and may enter into such agreements for the management of the Association Property as the Board of Directors deems to be in the best interests of the Association.

## Article 6 Assessments

6.1 Purpose of Assessments The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Lots, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

6.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments; (b) special assessments; and (c) specific assessments. All such assessments, together with late charges not to exceed the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due, and interest (at a rate set by the Board of Directors from time to time, but not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred, shall, from the time the sums become due and payable, be a charge on the land and shall be a continuing lien in favor of the Association on the Lot against which each assessment is made. The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien shall be required. Each such assessment, together with such late charges, interest and costs, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. If, however, the grantor or grantee in any conveyance shall request a letter from the Association as provided in Section 6.13 of this Article 6, such grantee and his or her successors, successors-in-title and assigns shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments against such grantor in excess of the amounts set forth in the letter.

General Assessments, and other assessments if so determined by the Board, shall be considered to be annual assessments even though the Board may allow such assessments to be paid in installments due more frequently than annually. Assessments shall be paid in such manner and on such dates as may be fixed by the Board, which may include, without limitation, acceleration upon thirty (30) days written notice of delinquency.

The holder of a first priority mortgage or a second purchase money mortgage of record, or their respective successors-in-title and assigns, shall not be liable for any assessment levied prior to the foreclosure and the Lot secured by such mortgage shall not be subject to any lien for assessments levied prior to the foreclosure of such mortgage. Notwithstanding the foregoing, the unpaid share of assessments levied prior to the foreclosure of such mortgage shall be deemed to be a common expense collectable from all of the Lots and Owners, including the holder of such mortgage and its successors-in-title and assigns. As used herein, the phrase "second purchase money mortgage" shall only refer to a mortgage given at the time of acquisition of a Lot to a grantee that is not also the transferor of the Lot. A foreclosure shall not relieve the mortgagee in possession or the purchaser at any foreclosure sale from any liability for any assessments becoming due after such foreclosure.

No Owner may waive or otherwise exempt themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

6.3 General Assessments. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause the budget and the assessments to be levied against each Lot for the year to be delivered to each member at least thirty (30) days prior to the due date of any general assessment. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for any period, then and until such time as a budget shall have been determined, as provided herein, the budget in effect shall continue. General assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in one annual installment. General assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Association Property, operating expenses of the Association, payment for any items of betterment, and the establishment of reserve funds as the Board shall deem proper. General assessments may include, without limitation: (a) sums for property taxes, insurance premiums, and legal, accounting and management fees, (b) charges for utilities, cleaning and janitor services, and landscape maintenance, (c) expenses and liabilities incurred as provided herein and in the Articles of Incorporation and By-Laws for indemnification

of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

6.4 Special Assessments. The Board may, in its discretion, levy special assessments ("Special Assessments") in any year. Special Assessments shall be for the purposes of paying the cost of unexpected maintenance, repairs or replacement of the Common Area or the cost of any unanticipated expenses, needs or obligations of the Association incurred or projected to be incurred in the performance of its obligations in this Declaration. Special assessments shall be paid as determined by the Board. The Board may permit a special assessment to be paid in installments extending beyond the fiscal year in which the special assessment is imposed. Any special assessment (except as provided in Article 9, Section 9.3 regarding repair or reconstruction of casualty damage to or destruction of all or part of the Association Property) which would cause the average total of special assessments levied in one fiscal year to exceed one hundred dollars (\$100) per Lot, may be disapproved by a majority of the Total Association Vote.

6.5 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board of Directors may also specifically assess Owners for Association expenses as follows: (a) common expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; (b) common expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received; (c) common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots may be specifically assessed against the Lot or Lots, the conduct of any occupant, licensee or invitee of which occasioned any such common expenses.

A specific assessment assessed hereunder shall be and become a lien against such Lot(s) and the personal obligation of the Owner(s) thereof. A specific assessment may be collected in the same manner as the General Assessment assessed hereunder.

6.6 . Initiation Fee. Upon transfer of title to a Lot, an initiation fee in the amount of \$500 shall be paid by or on behalf of the purchaser to the Association. Such fee shall be collected and disbursed to the Association, as applicable: (i) at closing of each and every purchase of and sale of a Lot; or (ii) immediately upon demand by the Association. The aggregate fund established by such fees shall be maintained in a separate reserve account for the purpose of insuring the Association will have cash available to provide for capital repairs, replacement or improvements to the Community recreational facilities deemed necessary or desirable by the Board of Directors. The initiation fee shall be in addition to and not in lieu of the annual assessment for such Lot. This provision shall not apply to any

first Mortgagee taking title through foreclosure proceedings or by deed in lieu of foreclosure.

6.7 Reserve Fund. Funds in the reserve fund account, if any, may only be used by the Association for the repair and/or replacement of the Association Property which the Association is obligated to maintain. In the event the Board of Directors elects to include sums for a reserve fund as part of the general assessment in any given year, the reserve fund thus established shall be maintained in a segregated account in which the commingling of funds from other Association accounts shall be prohibited.

6.8 Unbudgeted Expenditures. Any unbudgeted expenditure greater than \$3,000 must be approved by a majority of the Board of Directors. In the event that the Board of Directors determines that an unbudgeted non-emergency expenditure (except as provided in Article 9, Section 9.3 herein regarding repair or reconstruction of casualty damage to or destruction of all or part of the Association Property) greater than \$10,000 ("expenditure") from the annual operating fund is necessary or prudent for the Association, the Board of Directors will notify the Association members at least thirty (30) days prior to the anticipated date of the expenditure. Such expenditure shall become effective unless disapproved at a meeting by a majority of the Total Association Vote.

6.9 Subordination of Liens to Mortgages. All sums assessed against any Lot pursuant to this Declaration, together with fines, late charges, interest, costs of collection, including court costs, expenses incurred to protect and preserve any Lot and reasonable attorney's fees actually incurred, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all of the liens recorded against such Lot except for: (a) liens for ad valorem taxes on the Lot; (b) the lien of any first priority mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of this Declaration; or (c) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage or the sale or transfer of the Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the Lot pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve the Owner of the Lot of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such Lot from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such Lot to the Mortgagee or to any other Person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of such Lot of any personal obligation or relieve such Lot or the then Owner of such Lot from liability for any assessment authorized hereunder become due after such sale and transfer.

6.10 Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall



also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors-in-title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and such successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge not to exceed the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due and interest (at a rate set by the Board of Directors from time to time, but not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred. The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid sixty (60) days after notice is sent, the Association may institute suit to collect such amounts and/or to foreclose its lien. Such notice shall be sent by certified mail, return receipt requested, to the Lot Owner, both at the address of the Lot and at any other address the Lot Owner may have designated to the Association, in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and the rate of interest accruing thereon. The Association may file a claim of lien with the Office of the Clerk of Superior Court of the county where the Lot is located, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. Each Owner, by acceptance of a deed, vests in the Association the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all Owners. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also suspend, without further notice or hearing, the membership rights of the delinquent Owner, including the right to vote, the right of enjoyment in and to the Common Property and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not affect such members' obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent lien on such Lot in favor of the Association. The lien for assessments shall lapse and be of no further effect as to assessments or installments thereof, together with late charges and interest applicable thereto, which first became due and payable more than four (4) years prior to the date upon which the notice contemplated in this Section is given or more than four (4) years prior to the institution of an action therefore if an action is not instituted within ninety (90) days after the giving of the notice.

6.11 Date of Commencement of Assessments. Assessments shall commence when the Board of Directors first determines a budget and levies assessments.

6.12 Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

6.13 Estoppel Letter. The Association shall, within five (5) days after receiving a written request therefore and for a reasonable charge, as established by the Board but not to exceed \$10.00 or such greater amount provided by the Georgia Property Owners' Association Act, certify to the amount of any unpaid assessments together with late charges and interest applicable thereto constituting a lien on a specified Lot. A certification letter signed by an officer of the Association or the Association's managing agent, if any, as to the amount of assessments due with respect to a Lot shall be binding upon the Association and upon every Owner.

6.14 Fiscal Year. The Fiscal Year of the Association shall be the same as the calendar year.

## Article 7 Architectural Standards

7.1 General. No exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavation, grading, filling, construction of impervious surface, building, exterior alteration of existing improvements, change in the exterior color of any existing improvement, and planting and removal of landscaping materials), shall be commenced or placed upon any part of the Subdivision unless, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to improvements to the Association Property by or on behalf of the Association.

7.2 Guidelines and Procedures. Except as provided above, no exterior construction, addition or alteration to structures or landscaping shall be made unless and until plans and specifications shall have been submitted in writing to and approved by the Board of Directors no less than forty-five (45) days prior to the date for commencement of construction of Improvements on any Lot. Such plans and specifications shall be of sufficient detail to allow the Board to make its review. To the extent required by the Board, the plans shall show or state all appropriate aspects of the proposed improvements, such as the nature, kind, shape, height, materials and location.

The Board of Directors may adopt written architectural guidelines and application and review procedures, which may provide for a review fee not to exceed \$250.00.

The Board of Directors shall have sole and full authority to prepare and to amend, from time to time at its sole discretion and without notice, the architectural guidelines. The Board of Directors shall make the architectural guidelines available to Owners who seek to engage in construction within the Subdivision and such Owners shall conduct their operations strictly in accordance with those guidelines. If the Board of Directors fails to approve or to disapprove submitted plans and specifications within thirty (30) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. As a condition of approval

under this Article, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any improvement, change, modification, addition or alteration. In the discretion of the Board of Directors, an Owner may be required to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The Board of Directors shall be the sole arbiter of such plans and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. The Board of Directors and its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property in the Subdivision to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Persons shall not be deemed guilty of trespass by reason of such entry.

If construction does not commence on a project for which plans have been approved within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the Board of Directors for reconsideration. All work covered by such approval shall be completed within nine (9) months of the commencement of construction.

No construction or use that is inconsistent with, in addition to, or materially different from any previously approved Plans shall not be commenced or permitted until the plans reflecting such change or addition have been submitted to and approved by the Board of Directors in accordance with Article 7.

An Owner may make improvements and alterations within the interior of any Building on his or her Lot without first obtaining board approval. However, no Owner may make any interior improvements or alterations that would change the exterior appearance of any Building without submitting plans to the Board of Directors for approval. No interior changes can be made that will jeopardize or impair the safety, soundness or structural integrity of any Building or any other Improvements on the Property.

7.3 Limitation of Liability. Plans and specifications are not approved for engineering or structural design or quality of materials and, by approving such plans and specifications, the Association and the Board assume no liability or responsibility therefore or for any defect in any structure constructed from such plans and specifications. Neither the Association, nor the officers, directors, members, employees and agents of the Association shall be liable in damages to anyone submitting plans and specifications to any of them for approval or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of, or in connection with, the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against the Association or its officers, directors, members, employees and agents to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release

does not extend to claims, demands and causes of action not known at the time the release is given.

7.4 No Waiver. The approval of the Board of Directors of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval or consent of the Board, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters whatever subsequently or additionally submitted for approval or consent.

7.5 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration and the architectural guidelines if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to, topography, natural obstructions, hardship, aesthetic considerations or environmental considerations and would not be inconsistent with the overall scheme of development for the Subdivision. No variance shall (a) be effective unless in writing, (b) be inconsistent with the overall scheme of development for the Subdivision, or (c) estop the Board of Directors from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

7.6 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board of Directors, Owners shall, at their own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board and its agents shall have the right to enter the property, remove the nonconforming structure or improvement, and restore the property to substantially the same condition as previously existed. All costs, including, without limitation, attorney's fees and fines for noncompliance with this Article 7, may be assessed against the Lot as a specific assessment.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the architectural guidelines may be excluded by the Board of Directors from the Subdivision, subject to any applicable notice and hearing procedures contained in the By-Laws. In such event, neither the Association nor its officers, directors, members, employees and agents shall be held liable to any Person for exercising the rights granted by this paragraph. In addition to any other remedies available to the Association and the Board, in the event of noncompliance with this Article, the Board may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, the Board of Directors shall have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article.

7.7 Architectural Review Committee. The Board of Directors shall have the sole right, power and authority to review and approve building and construction activity within the Subdivision under this Article. Notwithstanding the foregoing, the Board of Directors may

establish an Architectural Review Committee, which shall then have all right, power and authority to review and approve building and construction activity within the Subdivision hereunder and this Article shall then be read and interpreted as if any reference to the authority of or action by the Board of Directors in this Article 7 were a reference to the authority of or action by the Architectural Review Committee. The Board of Directors shall have the sole right and authority to appoint and remove members of the Architectural Review Committee.

## Article 8 Use Restrictions and Rules

8.1 General. This Article, at Section 8.3, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may be amended only in the manner provided in Article 11 below. The Board of Directors may, from time to time, without consent of the members, promulgate, modify or deter other use restrictions and rules and regulations applicable to the Lots and Common Property. Unless, prior to recording this Declaration, an Owner has been notified in writing by the Board of Directors that an alteration, change or modification is not acceptable, any alterations, changes or modification to architecture or landscaping originally installed on Lots as of the date this Declaration is recorded in the Fulton County, Georgia records shall be deemed an approved change pursuant to Article 7 hereof. Each Owner, Occupant or other user of any portion of the Property at all times shall comply in every respect with any and all laws, ordinances, policies, rules, regulations and order of all Federal, State, County and municipal governments or their agencies having jurisdictional control over the Property.

8.2 Rules and Regulations. The Board of Directors may, from time to time and without a vote of the members, promulgate, modify or delete rules and regulations applicable to the Subdivision. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of the Total Association Vote.

8.3 Single-Family Residential Use. Each Lot shall be restricted exclusively to single-family residential use. No structure shall be erected, placed or altered or permitted to remain on any Lot except one (1) single-family residential dwelling, designed for the occupancy of one family (including any domestic servants living on the premises), and containing a garage for the sole use of the Owner and Occupants of the Lot. Leasing of a Lot for residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant in residence at the Lot may conduct business activities within the house so long as the business activity: (a) does not otherwise violate the provisions of the Declaration or By-Laws; (b) is not apparent or detectable by sight, sound or smell outside of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Subdivision; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Subdivision; (g) does not constitute a nuisance or a hazardous or offensive use; and (h) does not threaten the security or safety of other residents of the Subdivision. The Board of Directors, in its sole discretion, may determine that a business activity violates these requirements. The Board

may issue rules regarding permitted business activities. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity.

8.4 Signs. No sign of any kind shall be erected within the Subdivision without the prior written consent of the Board of Directors. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs. One "for-sale" sign and customary security and name and address signs consistent with the Community-Wide Standard, as well as any signs required by legal proceedings, may be erected upon any Lot. The Board of Directors is expressly authorized to regulate the size, design, graphics, location, color, and materials of signs. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure.

8.5 Vehicles and Parking. The term "vehicles," as used herein, shall include, without limitation, automobiles, motor homes, boats, trailers, motorcycles, minibikes, scooters, motorized scooters, go-carts, golf carts, trucks, campers, buses, vans and commercial vehicles. Vehicles besides automobiles shall not be parked or kept on any Lot at any time unless housed in a garage or basement. No inoperable vehicle shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street in the Subdivision or the Common Areas. Any towed vehicle, boat, recreational vehicle, motor home, or mobile home regularly stored in the community for periods longer than twenty-four (24) hours (unless kept in a garage or other area designated by the Board ) shall be considered a nuisance and may be removed from the community. Trucks with mounted campers which are an Owner's or Occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

All automobiles owned or used by Owners or Occupants other than temporary guests and visitors shall be parked in garages to the extent that garage space is available, and garages shall not be used for storage or otherwise so that they become unavailable for parking cars therein. No vehicle besides automobiles shall be parked on any street or Common Area in the Subdivision for a period in excess of twenty-four (24) hours in any one (1) calendar year. Any parking of vehicles that causes a nuisance, or interferes with the ability of Owners or public safety vehicles to enter or exit the community or Lots, is prohibited.

No repairs of any vehicle shall be performed on any Lot or in the Common Areas, except (a) within an enclosed garage, or (b) for emergency repairs, and then only to the extent necessary to enable movement of the vehicle to a proper repair facility, or (c) as permitted by the rules and regulations of the Association and any applicable governmental law, regulation or ordinance.

No motorized vehicles, including, but not limited to, automobiles, motorcycles, go-carts, and motorized scooters, shall be permitted on pathways, tennis courts, unpaved Common

Property or any other area not designated as a street or roadway. This prohibition does not apply to public safety vehicles.

8.6 Temporary Structures. No structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other building, shall be permitted on any portion of a Lot at any time, whether temporarily or permanently, except with the prior written consent of the Board of Directors in accordance with Article 7 of this Declaration.

8.7 Animals and Pets. No animals, including, without limitation, reptiles, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of a reasonable number of dogs, cats or other usual and common household pets as determined by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall at all times when outside the Lot be kept on a leash or otherwise under control. Dogs shall not be permitted to bark excessively. In addition to all other remedies available herein, if in the opinion of the Board of Directors, a dog constitutes a continuing nuisance whether because of barking or otherwise, the Board of Directors may seek removal of the dog from the Subdivision. All pets shall be registered, licensed and inoculated if and as required by law. Animal control authorities shall be permitted to enter the Subdivision to patrol and remove unlicensed pets. An Owner shall not allow any animal waste to remain on the Association Property or any other Lot. No exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 7 hereof.

8.8 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on their Lot. No property within the Subdivision shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye. No substance, thing or material will be kept, nor vehicle or sound device operated, that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious, offensive, or illegal activity shall be carried on within the Subdivision. No plants, animals, vehicles, device or thing of any sort shall be maintained or operated in the Subdivision whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature that may diminish or destroy the enjoyment of the Subdivision by other Owners and Occupants. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device that is deemed offensive by the Board, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot. Any siren or device for security purposes shall contain a device which causes it to automatically shut off within a reasonable time after sounding.

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

8.10 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting of radio or video signals shall be placed, allowed or maintained upon any portion of the Subdivision, including any Lot, unless approved in accordance with the provisions of Article 7 hereof; provided, however, no such approval shall be necessary to install (1) antennae designed to receive direct broadcast satellite services, including direct-to-home satellite services, that are one meter or less in diameter; (2) antennae designed to receive video programming services via multi-point distribution services that are one meter or less in diameter or diagonal measurement; or (3) antennae that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennae on the rear of the dwelling located on a Lot unless an acceptable quality signal cannot otherwise be obtained.

8.11 Drainage. Catch basins, retention ponds, detention ponds, drainage easement areas and related drainage facilities are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flows after location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 7 hereof. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each Lot shall be made with watertight joints in accordance with all applicable plumbing requirements.

8.12 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or other planting or thing shall be placed or permitted to remain where, in the opinion of the Board of Directors, it would create an unsafe condition.

8.13 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment, and other similar items shall be located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris or other waste matter of any kind may not be burned within the Subdivision.

8.14 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval in accordance with the provisions of Article 7 hereof.

8.15 Guns and Archery Equipment. The use of firearms and Archery Equipment in the Subdivision is prohibited. The term "firearms" includes, without limitation, B-B guns, pellet guns and firearms of all types.

8.16 Utility Lines. Except as may be permitted under and pursuant to Article 7 hereof, no overhead utility lines, including lines for cable television, shall be installed within the Subdivision.

8.17 Air-conditioning Units. No window air conditioning units may be installed.

8.18 Swimming Pools. No above-ground swimming pools shall be erected within the Subdivision. Below ground swimming pools, as well as hot tubs or spas, whether above or



below ground, shall not be erected or placed on any lot unless design and placement are approved by the Board of Directors.

8.19 Mailboxes and Paper Holders. All mailboxes and/or paper holders authorized or permitted shall be of that standard approved by the Board of Directors. Identical replacement mailboxes may be installed without further approval; but no modification to or change in mailboxes may be made unless approved in accordance with the provisions of Article 7 hereof.

8.20 Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

8.21 Entry Features. Owners shall not alter, remove or add improvements to any entry features or streetscapes constructed on any Lot, without prior approval in accordance with the provisions of Article 7 hereof.

8.22 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon, in or under any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon, under or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

8.23 Flagpoles, Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on the Property except within an enclosed Building. Exterior sculpture, fountains, flags and similar items must be approved by the Board in accordance with Article 7. American and decorative flags no larger than 4' by 6' do not require Board approval. However, the Board may require removal of any flag(s) that a majority of the Board deems to be offensive or inconsistent with the standards of the neighborhood.

8.24 Fences and Walls. No fence or wall of any nature may be erected, placed or altered on any Lot until construction plans are approved in writing by the Board of Directors in accordance with the provisions of Article 7.

8.25 Traffic Regulations. All vehicular traffic, including but not limited to automobiles, motorcycles and motorized scooters, on all Streets shall be subject to the provisions of the laws of the State of Georgia, the County and the City concerning operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer and enforce reasonable rules and regulations by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. All vehicles of any kind and nature which are operated on the Streets shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all Owners and Occupants.

8.26 Use of Lots. Leasing or renting a residential Building shall not be a violation of Section 8.3 so long as the lease (i) is for not less than the entire Building, (ii) is solely for residential purposes, (iii) is for a term of at least six (6) months, and (iv) is otherwise in compliance with rules and regulations as may be promulgated and published from time to time by the Board. All leases shall be required to be in writing, and, prior to the commencement of any such lease, the Owner shall provide the Secretary of the Association with a copy of any such

lease. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder. The Board shall have the right to adopt rules and regulations regarding leasing of residential Buildings permitted by this Section 8.26.

8.27 Recreational Equipment. Recreational and play equipment of a permanent nature, including without limitation, swing sets, ramps, and goals for basketball, soccer, and hockey, must be approved in writing by the Board of Directors in accordance with the provisions of Article 7. No application for recreational and play equipment will be approved by the Board of Directors unless the plans and specifications adhere to the following requirements:

(i) Permanent basketball goals may not be mounted to the house, and poles must be at least 20 feet back from the street or sidewalk, and 10 feet back from the front corner of the house.

(ii) Portable goals are not permitted to be placed in or near the sidewalk or street.

(iii) All soccer, hockey, and similar goals, as well as tetherball poles, volleyball nets, badminton nets, and swing sets, must be located so as not to be visible from the street.

(iv) Swing sets and play structures must be of natural materials (no metal structures) and earth tones in color, with a height of no more than 12 feet above grade.

(v) Skateboard ramps must be portable, may not be permanently affixed to the ground, and must be stored where not visible from streets or adjacent property when not in use.

(vi) Trampolines must be in the backyard and screened from view of neighboring property. Play and recreational equipment must be stored properly when not in use.

## Article 9

### Insurance and Casualty Losses

9.1 Insurance on Association Property. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association (“Fannie Mae”), the U.S. Department of Veterans Affairs (“VA”), and the U.S. Department of Housing and Urban Development (“HUD”), as applicable to the Common Property. Accordingly, the Board of Directors shall obtain casualty insurance for all insurable improvements located on the Common Property. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board of Directors shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. Policies may contain a reasonable deductible as determined by the Board of Directors. In addition to the other insurance required by this Section, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonably available. **If obtained, the amount of fidelity coverage shall cover the**

**maximum funds that will be in the custody of the Association or its management agent at any time while the policy is in force, or any lesser amount of fidelity coverage allowable under the applicable Fannie Mae guidelines.** Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

9.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on the covering all insurable portions of such Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policies required hereunder shall be in effect at all times.

9.3 Damage and Destruction -- Insured by Association. Immediately after damage or destruction by fire or other casualty to any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within 60 days after the casualty, a proposal not to repair or reconstruct such property is approved by at least 75% of the Total Association Vote. If, for any reason, either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members of the Association, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall thereafter be maintained by the Association in a neat and attractive condition.

9.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any improvement on a Lot shall be

substantially in accordance with the plans and specifications for such damaged or destroyed Lot prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the Owner of the improvement(s) on the Lot which is (are) to be so repaired, reconstructed or rebuilt, and by the Board of Directors. The work of repairing, reconstructing or rebuilding any damaged or destroyed improvement located on a Lot shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The Owner of any improvement on a Lot which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this Section 9.4 shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this Section 9.4

## Article 10 Mortgagee Provisions

10.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Subdivision or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days; (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (d) any proposed action which would require the consent of a specified percentage of eligible holders.

10.2 Audit. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements of the Association within ninety (90) days of the date of the request.

10.3 No Priority. No provision of this Declaration or the By-Laws gives any Owner or other party priority over any rights of a Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Association Property.

10.4 Notices to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any first Mortgage encumbering such Owner's portion of the Property.

10.5 Applicability of Article 10. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws or Georgia law for any of the acts set out in this Article.

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

Article 11  
General Provisions

11.1 Enforcement. Each Owner and Occupant shall comply strictly with the By-Laws, rules and regulations and use restrictions, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plats for the Subdivision and in the deed to such Owner's Lot. The Board of Directors may impose fines or other sanctions for violations of the foregoing, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-Laws, use restrictions, design or architectural guidelines, or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association, the Board of Directors or an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to record in the appropriate land records a notice of violation of the Declaration, By-Laws, rules and regulations, use restrictions or architectural guidelines and to assess the cost of recording and removing such notice against the Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

11.2 Occupants Bound. All provisions of the Declaration, By-Laws, rules and regulations, use restrictions and architectural guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, By-Laws, rules and regulations, use restrictions and architectural guidelines.

11.3 Self-Help. In addition to any other remedies provided for herein, the Association, the Board of Directors or their respective duly authorized agents shall have the power to enter upon any Lot or any other portion of the Subdivision to abate or remove any structure, thing or condition which violates this Declaration, the By-Laws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the violating Owner shall be given ten (10) days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

11.4 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Subdivision, and shall inure to the benefit of and shall be enforceable by the Association and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, if and to

the extent that, Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be (a) automatically extended for successive periods of twenty (20) years (or the maximum period allowed by applicable law, if less), unless a written instrument signed by the then Owners of at least two-thirds (2/3) of the Lots has been recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

11.5 Amendment. This Declaration may be amended upon the affirmative vote or written consent, or any combination of both, of Owners of Lots to which two-thirds of the Total Association Vote entitled to vote thereon appertains. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the By-Laws, the Articles of Incorporation and Georgia law were given.

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

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

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

11.9 Preparer. This Declaration was prepared by Steven M. Winter, WEINSTOCK & SCAVO, P.C., 3405 Piedmont Road, Suite 300, Atlanta, Georgia 30305

11.10 Notices. Notices provided for in this Declaration or the Articles or By-Laws shall be in writing, and shall be addressed to an Owner at the address of the Lot or to the Association at the address of its respective registered agent in the State of Georgia. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery

by commercial courier service. The time period in which a response to any such Notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or receipt or the return receipt of the Notice by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice was given shall be deemed to be receipt of the Notice sent.

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

11.12 Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

11.13 Notice of Sale, Lease or Acquisition. Prior to the sale or lease of a Lot, the Owner shall provide the Association with written notice of the name of the purchaser or lessee, as the case may be, and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall provide the Association with written notice of the name and mailing address of the Owner and such other information as the Board may reasonably require.

11.14 Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Subdivision or the privilege of possession and enjoyment of any part of the Subdivision.

11.15 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration, the By-Laws and any rule, regulation or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular

case is warranted and would not be inconsistent with the overall scheme of development for the Subdivision.

11.16 Board's Determination Binding. In the event of any dispute or disagreement between any Owners relating to the Subdivision, or any questions of interpretation or application of this Declaration or the By-Laws, the determination thereof by the Board of Directors shall be final and binding on each and all such Owners.

11.17 Books and Records. This Declaration, the By-Laws, the Articles of Incorporation, copies of rules and regulations, use restrictions, design guidelines, membership register, books of account, and minutes of meetings of the Owners, or the Board and of committees shall be made available for inspections and copying by any Owner or by his duly appointed representative and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as an Owner or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

The board shall establish reasonable rules with respect to:

- (a) notice to be given to the custodian of the records;
- (b) hours and days of the week when such an inspection may be made; and
- (c) payment of the cost of reproducing copies of documents.

11.18 Estoppel Certificate. Upon the request of any Owner, the Board or its designee shall furnish a written certificate signed by an officer or agent of the Association regarding unpaid assessments levied against that Owner's property and any violations of the Declaration, By-Laws, use restrictions, rules and regulations, or design guidelines by any Owner or Occupant of such property. Such certificate shall bind the Association with respect to the foregoing matters. The Association may require the advance payment of a processing fee for the issuance of each such certificate.

11.19 Implied Rights. The Association may exercise any right or privilege given it expressly by the Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule, the design guidelines and every other right or privilege to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

11.20 Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control.

11.21 Security. All owners, occupants, guests, and invitees, as applicable, acknowledge and understand that the Association, its Board of Directors, and any committees:



(a) do not represent or warrant that (i) any safety or security measures will be implemented in the subdivision or, (ii) if implemented, that such safety or security measures may not be compromised or circumvented, or (iii) that any such safety or security measure will in all cases provide the detection or protection for which they are designed and

(b) are not insurers and that each owner, occupant, guest, and invitee assumes all risks of personal injury and property damage.

11.22 Adoption of Georgia Property Owners' Association Act. The Property, all Lots and all Owners and Occupants of Lots shall be subject to and governed by the Georgia Property Owners' Association Act set forth in Article VI of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, as the same now exists or may be amended from time to time.

All owners, occupants, guests, and invitees, as applicable, further acknowledge and understand that the Association, its Board of Directors, and any committees have made no representations or warranties nor has any owner, occupant, guest, or invitee relied upon any representations or warranties, express or implied, including any warranty or merchantability or fitness for any particular purpose relative to any safety or security measures implemented or approved.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association hereby executes this instrument under seal,  
this \_\_\_\_ day of \_\_\_\_\_, 2005.

ASSOCIATION: THE RIDGE CLUB, INC., a Georgia  
nonprofit corporation

By: \_\_\_\_\_  
Name:  
Title: President

Attest: \_\_\_\_\_  
Name:  
Title: Secretary

[AFFIX CORPORATE SEAL]

Signed, sealed and delivered  
in the presence of

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]

EXHIBIT "A"

Sworn Statement of President Of  
The Ridge Club, Inc.

STATE OF GEORGIA

COUNTY OF FULTON

Re: The Ridge Club, Inc.

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the President of The Ridge Club, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his own personal knowledge.
3. The foregoing Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Ridge was approved by the required vote of the Members representing a Majority of the total Association vote entitled to vote thereon.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20.

This \_\_ day of \_\_\_\_\_, 2005.

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: President

Signed, sealed and delivered  
in the presence of:

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

[AFFIX NOTARY SEAL]

EXHIBIT "B"  
Property Description

EXHIBIT "C"

By-Laws of The Ridge Club, Inc.