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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

FOXWOOD SUBDIVISION

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

FOXWOOD SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made as of the date set forth on the signature page hereof by D. R. Horton, Inc., a Delaware corporation ("Declarant").

Declarant is the owner (or if not the owner, with the written consent of such owner as attached hereto) of the real property described in Exhibit "A," which is attached and incorporated by reference. By this Declaration, Declarant imposes upon the Community mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Community, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Community. In furtherance of such plan, Declarant has caused or intends to cause the Foxwood Community Association, Inc., to be formed as a Georgia nonprofit corporation to own, operate, and maintain Common Areas, as defined below, and to administer and enforce the provisions of the Governing Documents.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Community, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community.

This document does not and is not intended to create a condominium within the meaning of the Georgia Condominium Act, O.C.G.A. Section 44-3-70, and the Association is not subject to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220.

Article I DEFINITIONS

The terms in this Declaration and the attached exhibits shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contract, or agreement.

1.2. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Foxwood Community Association, Inc., as filed with the Secretary of State of the State of Georgia.

1.3. "Association": Foxwood Community Association, Inc., a Georgia non-profit corporation, its successors or assigns.

1.4. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Georgia corporate law.

1.5. "By-Laws": The By-Laws of Foxwood Community Association, Inc., attached as Exhibit "E," as they may be amended.

1.6. "Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

1.7. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association, including any reasonable reserve, as the Board may find necessary and appropriate.

1.8. "Community": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article VII.

1.9. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Community as initially established by Declarant. After Declarant no longer has the right to appoint and remove directors and officers of the Association, such standard may be more specifically determined by the Board of Directors.

1.10. "Declarant": D.R. Horton, Inc., a Delaware corporation, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant.

1.11. "General Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units.

1.12. "Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, any architectural or design standards as provided for herein, and the Use Restrictions and Rules, each as they may be amended.

1.14. "Member": A Person subject to membership in the Association pursuant to Section 3.2.

1.15. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

1.16. "Mortgagee": A beneficiary or holder of a Mortgage.

1.17. "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

1.18. "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.19. "Plat": The recorded final plat applicable to the Community or phase of the Community.

1.20. "Record," "Recorded," or "Recording": The appropriate recordation or filing of any document in the Office of the Clerk of the Superior Court of the County of Fulton, State of Georgia, or such other place which is designated as the official location for recording deeds and similar documents affecting title to real estate.

1.21. "Special Assessment": Assessments levied in accordance with Section 8.5.

1.22. "Specific Assessment": Assessments levied in accordance with Section 8.6.

1.23. "Supplemental Declaration": An instrument Recorded pursuant to Article VII which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.24. "Unit": A portion of the Community, whether improved or unimproved, which is intended for development, use, and occupancy as a residence for a single family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on a Recorded subdivision Plat with respect to any portion of the Community, together with the structures, if any, constructed thereon, as well as vacant land intended for further subdivision, but shall not include Common Areas or property dedicated to the public.

In the case of a portion of the Community intended and suitable for subdivision into single-family lots but as to which no subdivision Plat has been Recorded, such property shall be deemed to contain the maximum number of Units permitted under the city or county zoning ordinance applicable to the property until such time as a subdivision Plat is Recorded with respect to all or a portion of the property. Thereafter, the portion encompassed by such Plat shall

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

2.2. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property, which may or may not be subject to this Declaration.

2.3. Condemnation. If any part of the Common Area shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

2.4. Actions Requiring Owner Approval. If either the U.S. Department of Housing and Urban Development ("HUD") or the U.S. Department of Veterans Affairs ("VA") is insuring or guaranteeing the Mortgage on any Unit, then so long as such actions are required by HUD or VA to be approved, the following actions shall require the prior approval of Members representing not less than two-thirds (2/3) of the total votes in the Association and the consent of Declarant, if Declarant owns property described on Exhibit "A" or "B": merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B;" and dedication, conveyance, or mortgaging of Common Area except as required by Sections 4.2, 4.5 and 4.7. Notwithstanding anything to the contrary in Section 2.3 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without membership approval.

2.5 Use of Recreational Facilities. Declarant may, but shall not be required to, construct recreational facilities on portions of the Common Area such as: tennis courts, a pool, bathhouse, viewing areas, and the like. In the event Declarant constructs such recreational facilities, the following shall apply:

(a) For so long as Declarant owns any property subject to this Declaration or may annex additional property to this Declaration, Declarant shall have the right to grant to persons who are not members of the Association the right to use the recreational facilities. The extent and duration of nonmember use and the fee to be charged shall be determined solely by Declarant. The Declarant may grant nonmember use rights to Persons as an easement appurtenant to such Person's residential real property so that such use rights shall automatically inure to the benefit of such Persons and their heirs and assigns.

(b) Any use right granted to nonmembers which extends beyond the time period specified in (a) above shall be valid and may not terminate by the Association so long as the terms and conditions imposed upon nonmember use by the Declarant are complied with by the nonmember user.

(c) Declarant hereby reserves unto itself, its successors and assigns, a non-exclusive, perpetual right and privilege, and easement with respect to the Community for the benefit of Declarant, its successors, assigns, and the above nonmember users, without obligation or charge. These rights shall include, without limitation, an easement for travel across all Common Property in the Community. Declarant shall not be responsible for any fees to be paid by such nonmember.

Article III MEMBERSHIP AND VOTING RIGHTS

3.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia.

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner, which is not a natural person, may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Association's Secretary.

3.3. Voting. Members shall be entitled to one vote for each Unit owned. When more than one Person holds an ownership interest in any Unit, the vote for such Unit shall be exercised as those Owners themselves determine and advise the Association's Secretary prior to any meeting. The Unit's vote shall be suspended in the event more than one Person seeks to exercise it.

Article IV RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and maintain the Common Area and all improvements thereon in a manner consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under the Governing Documents, the cost of which shall be a Common Expense.

4.2. Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the properties described in Exhibits "A" or "B," personal property, and leasehold and other property interests. Such property shall be accepted by the Association "as is" and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any improvements to the property conveyed to the Association, including, without limitation, dredging or removing silt from lakes or ponds. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Community originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3. Enforcement. The Association may impose sanctions for violations of the Governing Documents in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, in accordance with of the By-Laws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing Documents or Association rules, if the Association prevails it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action. So long as the Declarant owns any property described on Exhibit "A" or "B", the Declarant may but shall not be obligated to, take any enforcement action, or exercise any right on behalf of or independent from the Association.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and local governments may enforce their ordinances within the Community.

4.4. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically

provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Governmental Interests. For so long as Declarant owns any property described on Exhibits "A" or "B," Declarant may designate sites within the Community for fire, police, and utility facilities; public schools and parks; and other public or quasi-public facilities. The sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant.

4.6. Indemnification.

(a) The Association shall indemnify every officer, director, and committee member, including members of the committees established under Article IX, against all damages and expenses, including attorneys fees, reasonably incurred 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 he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law.

(b) 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 and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

(c) Decisions whether to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party. In deciding whether to bring a civil action against another party, a director is protected by the business judgment rule as explained in Section 3.25 of the By-Laws.

4.7. Dedication of Common Areas. The Association, acting through the Board, may dedicate portions of the Common Areas to Fulton County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity.

4.8. Safety and Security. Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in FOXWOOD. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to enhance the

level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any security system or measures, including any mechanism or system for limiting access to the Community, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board of Directors and committees, and Declarant are not insurers or guarantors of safety or security and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

Article V MAINTENANCE

5.1. Association's Responsibility.

(a) The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(i) the Common Area, including any recreational amenities, open space, and all landscaping, signage, lighting, irrigation systems and equipment, fences, walls, and other structures and improvements, sidewalks, paths, and trails, situated upon the Common Area;

(ii) landscaping, signage, and sidewalks within public rights-of-way within or adjacent to the Community, except to the extent that such responsibility is assumed by a governmental or quasi-governmental body or public utility;

(iii) any lakes, ponds, streams, and/or wetlands located within the Community and all drainage systems, storm water retention, or detention systems for the Community to the extent maintenance is required in the Board's opinion and such area is not to be maintained by a governmental entity or third party;

(iv) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

(v) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its

on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Article VI
INSURANCE AND CASUALTY LOSSES

6.1. Association Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering the full replacement cost of all insurable improvements from "risks of direct physical loss" for the Common Area and on other portions of the Area of Common Responsibility to the extent that the Association has responsibility for maintenance, repair, and/or replacement in the event of a casualty, regardless of ownership;

(ii) Commercial general liability insurance on the Area of Common Responsibility insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and umbrella coverage) shall have a limit of at least \$500,000.00 per occurrence with respect to bodily injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain additional coverages or limits;

(iii) Such other insurance such as workers compensation, directors and officers liability coverage, and fidelity insurance as the Board, in the exercise of its business judgment, determines advisable.

(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of insurance coverage. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon written request, to any Member. The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may levy a Specific Assessment of the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.6.

the Members representing at least 67% of the total votes in the Association, and Declarant, so long as Declarant owns property described in Exhibit "A" or "B," decide not to repair or reconstruct. If the Association determines that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy a Special Assessment to cover the shortfall.

6.2. Owners' Insurance. Each Owner shall be responsible for insuring his or her own Unit and any property maintained by the Owner or the occupants of its Unit, their respective family members, guests, or invitees, within the Unit or elsewhere in the Community.

In the event of damage or destruction of structures on or comprising a Unit, the Owner shall, within 180 days thereafter, complete repair or reconstruction of the damaged structures in a manner consistent with the original construction or such other plans and specification as are approved in accordance with Article IX or, in the alternative, the Owners shall clear the Unit of all debris and ruins and thereafter maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

Neither the Association nor Declarant shall bear any responsibility for the maintenance or safekeeping of personal property of any Owner or occupant of a Unit, their family, guests, or invitees, nor shall the Association or Declarant be held liable for the conditions of, or any loss or damage to, any such personal property except to the extent directly attributable to the reckless acts or willful misconduct of the Association, Declarant, or their respective agents or employees.

Article VII ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1. Annexation Without Approval of Membership. Until all property described on Exhibit "B" has been subjected to this Declaration or ten years after the Recording of this Declaration, whichever is earlier, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." Declarant may transfer or assign this right to annex property, provided that the transferee or

assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Nothing in this Declaration shall be construed to require the Declarant to annex or develop any of the property set forth in Exhibit "B".

7.2. Annexation With Approval of Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing at least two-thirds (2/3) of the total votes in the Association present in person or by proxy at a meeting duly called for such purpose, and the consent of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 7.1. Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by Declarant, if Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Section 7.1, for the purpose of removing any portion of the Community from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not Declarant.

7.4. Additional Covenants and Easements. Declarant may subject any portion of the Community to additional covenants and easements by Recording a Supplemental Declaration, concurrent with or after the annexation of the subject property, setting forth such additional covenants and easements. Any such Supplemental Declaration shall require the written consent of the owner(s) of the subject property, if other than Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with Declarant or other entities for payment of Common Expenses.

8.2. Declarant's Obligation for Assessments: Declarant shall not be liable for payment of assessments on its unsold Units. However, Declarant may, but shall not be obligated to, annually elect to contribute to the Association the difference between the amount of assessments levied on all other Units subject to assessment and the amount of the Association's actual expenditures during the fiscal year (a "Subsidy"). Any Subsidy may be treated, in Declarant's discretion, as either: a voluntary contribution; an advance against future assessments (if any); or a loan by Declarant to the Association. A Subsidy may be evidenced by one or more promissory notes from the Association in favor of Declarant or Declarant may cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community.

Any Subsidy shall be disclosed as a line item in the Common Expense budget. The payment of a Subsidy in any year shall under no circumstances obligate Declarant to continue payment of such Subsidy in future years.

8.3. Computation of General Assessments. At least 30 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year. General Assessments shall be fixed at a uniform rate for all Units subject to assessment under Section 8.8. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units.

The budget and notice of the amount of the General Assessment for the following years shall be available to each Owner at least thirty (30) days prior to the assessment or installment due date. Such budget and assessment shall become effective unless disapproved at a meeting by at least 67% of the Members and by Declarant, so long as Declarant owns any property described on Exhibits "A" or "B." There shall be no obligation to call such a meeting unless a petition for a special meeting is presented to the Board within 10 days of the delivery of the notice of assessment.

If a budget is not adopted for any year, then until such time as a budget is adopted, the budget in effect for the immediately preceding year shall continue for the current year.

8.4. Reserve Budget and Capital Contribution:

(a) The Board may prepare a reserve budget which takes into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. If established, the Board shall include as a line item in the Common Expense budget capital contribution in an amount sufficient to permit meeting the Association's projected needs over the budget period. There

shall be no obligation to establish a reserve budget and make such assessments. If reserves are not established or are insufficient for the repair or replacement of any capital asset, Special Assessments may be levied.

(b) Upon acquisition of record title to a Unit by the first Owner other than Declarant or a builder, a contribution of \$ 200 ("Initiation Fee") shall be made by or on behalf of the purchaser to the Association as set forth below. The Initiation Fee shall be in addition to, not in lieu of, any annual or special assessments. The Initiation Fee shall be payable at Closing, shall not be prorated, and the Association shall have all rights under the Declaration for enforcement of assessments if it is not paid. The Initiation Fee shall be deposited into an account of the Association and disbursed from that account (a) \$ 150 for operating expenses and costs of the Association in accordance with the Declaration and Bylaws, as amended; and (b) \$ 50 of the Initiation Fee shall be held by the Association as a long term "Maintenance Reserve" to be disbursed by the Association for maintenance of any property which the Association is required or permitted to maintain in its sole discretion. The Initiation Fee referred to in this paragraph is payable only one time, and will not be charged subsequent purchasers of the Unit.

8.5. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any Special Assessment which would exceed the amount of the General Assessment in any fiscal year shall require the affirmative vote or written consent of a majority of the total votes in the Association, and the affirmative vote or written consent of Declarant, so long as Declarant owns any property described on Exhibit "A" or "B." Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Special Assessments shall be levied equally on all Units, subject to assessment under Section 8.8.

8.6. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit or Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance or pest control), which assessments may be levied in advance of the provision of the requested benefit, item, or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws, or rules or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.24 of the By-Laws before levying any Specific Assessment under this subsection (b).

8.7. Lien for Assessments. The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, costs of collection, and attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Georgia law.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While the Association owns a Unit following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged the foreclosed Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.8, including such acquirer, its successors and assigns.

8.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day of the month following the transfer or conveyance of an improved Unit with a certificate of occupancy to a Person for residential use: (a) the month in which the Board establishes the Common Expense budget and levies assessments, or (b) the date upon which the Unit is conveyed or transferred from Declarant to an Owner for residential occupancy, whichever is later. The first annual General Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

8.9. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail 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 General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.10. Exempt Property. The following property shall be exempt from payment of assessments:

- (a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1; and
- (b) Any property dedicated to and accepted by any governmental authority or public utility.

Article IX ARCHITECTURAL STANDARDS

9.1. General. No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, other site work, exterior alteration of existing improvements, painting or modifying fences, and planting or removal of landscaping materials) shall take place except in compliance with this Article and approval of the appropriate entity under Section 9.2. Notwithstanding this, the Board may, by resolution, exempt certain activities from the application and approval requirements of this Article provided such activities are undertaken in strict compliance with the requirements of such resolution. Any Owner may remodel, paint, or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. 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 the activities of Declarant or the Association.

9.2. Architectural Review. So long as Declarant owns any property described in Exhibit "A" or "B" for development or sale, Declarant shall have exclusive authority to administer and enforce architectural controls under this Article and to review and act upon all applications for construction and modifications within the Community. Declarant's rights under this Article IX may be assigned in whole or in part.

Upon the expiration or assignment of Declarant's authority to control architectural review for all or a portion of the Community, the Board shall create and appoint an Architectural Review Committee ("ARC"). The ARC shall consist of at least three, but not more than five, persons who shall serve and may be removed in the Board's discretion; provided, as long as Declarant owns any property described on Exhibits "A" or "B," it shall be entitled to appoint one member. Until Declarant's authority expires, the ARC shall have no rights or authority except as Declarant may assign. Upon termination of Declarant's authority over architectural review, the ARC shall have authority over modifications, additions, or alterations made on or to existing structures on Units and the adjacent open space. At any time during the review process, so long as it owns any property described in Exhibit "A" or "B," Declarant shall have the right to veto any action taken by the ARC.

For the purposes of this Declaration, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." Reviewers of applications need not be Members. Reviewers may delegate certain rights and responsibilities to qualified individuals to act on its

(a) Design Guidelines. Declarant may prepare architectural standards or design guidelines ("Design Guidelines") for the Community. The Design Guidelines are not the exclusive basis for decisions but they may provide guidance on specific matters. Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any property described on Exhibit "A" or "B." Thereafter, the ARC shall have the authority to amend the Design Guidelines with the consent of the Board.

In reviewing each submission, the Reviewer may consider whatever factors it deems relevant, including harmony of external design with surrounding structures and environment and location in relation to surrounding structures, topography, and finish grade elevation. Decisions of the Reviewer may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are purely subjective and may vary over time and among different Persons. The Reviewer may require relocation of native plants within the construction site, screening, and landscaping as a condition of approval of any submission.

If construction does not commence on a project which has been approved within 180 days of such approval, such approval shall be deemed withdrawn, and it shall be necessary for

the Owner to reapply for approval. If construction is not completed on a project for which plans have been approved within a period set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article.

9.4. No Waiver of Future Approvals. Each Owner acknowledges that the Reviewer will change from time to time and that interpretation, application, and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.5. Variance. The Reviewer may authorize variances in writing from its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations, (b) when unique circumstances dictate, such as unusual topography, natural obstructions, hardship, or aesthetic or environmental considerations, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. For purposes of this Section, the inability to obtain, or the terms of, any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance.

9.6. Limitation of Liability. The requirements and procedures established by this Article are intended to enhance the overall aesthetics of the Community and shall not create any duty to any Person. A Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring the appropriateness of soils, drainage, and general site work. Neither Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the Association shall defend and indemnify a reviewing body and their members.

9.7. Enforcement. Any structure or improvement placed or made in violation of this Article or the Design Guidelines shall be deemed to be nonconforming, unless a variance has been granted. Upon written request from the Board or Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, Declarant or the Board shall have the right to Record a notice of violation and to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the Owner and Unit and collected as a Specific Assessment.

Unless otherwise specified in writing by a Reviewer granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the By-Laws, to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof 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 Design Guidelines may be excluded by the Board from the Community, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association and Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the reviewing bodies.

Article X

USE RESTRICTIONS AND RULES

10.1. Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Community in order to enhance all Owners' collective interests, subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, and desires within the Community. The initial Use Restrictions and Rules attached as Exhibit "C," establish affirmative and negative covenants, easements, and restrictions on the land subject to this Declaration.

All provisions of this Declaration and any Association rules shall apply to all Owners, occupants, tenants, guests, and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of the Governing Documents.

10.2. Authority to Promulgate Use Restrictions and Rules. The initial Use Restrictions and Rules applicable to all of the Community are attached as Exhibit "C" to this Declaration and may be modified in whole or in part, repealed, or expanded as follows:

(a) Subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial Use Restrictions and Rules. The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective unless disapproved at a meeting by Members representing at least 51% of the total Association votes and by Declarant, so long as Declarant owns any property described on Exhibit "A" or "B." The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon petition of the Members as required for special meetings in the By-Laws.

(b) Alternatively, the Members, at a meeting duly called for such purpose as provided in the By-Laws, may adopt rules which modify, cancel, limit, create exceptions to, or expand the use restrictions and rules previously adopted by a vote of Members representing at least 51% of the total Class "A" votes in the Association and the approval of Declarant, so long as Declarant owns any property described on Exhibit "A" or "B."

(c) At least 30 days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the newly-adopted rule to each Owner. The Association shall provide, without cost, a copy of the new Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) The foregoing procedures shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation, speed limits, or landscaping on the Common Area. The Board shall exercise business judgment in the enactment, amendment, and enforcement of such administrative rules and regulations.

(e) The foregoing procedures shall not restrict amendments to this Declaration or the Design Guidelines enacted under Section 9.3.

10.3. Owners' Acknowledgment. All Owners and occupants of Units are given notice that use of their Unit or Units is limited by the Use Restrictions and Rules as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into and Recording a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected, that the Use Restrictions and Rules may change from time to time, and that such changes may not be reflected in a Recorded instrument.

10.4. Rights of Owners. Except as may be specifically set forth in this Declaration (either initially or by amendment), neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Similar Treatment. Similarly-situated Owners and occupants shall be treated similarly.

(b) Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the Architectural Review Committee.

the extent reasonably possible, such easements over Units shall be limited to setback areas adjacent to the perimeter boundary of each Unit.

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.3. Easements for Drainage. Declarant hereby reserves a perpetual easement across all Community property for the purpose of altering drainage and water across all Community property for the purpose of altering drainage and water flow. This right shall include, but is not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls, and altering channeling, or piping waterflow across any Unit or any property in the Community. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

11.4. Easements to Serve Additional Property. Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing utilities on or through such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of the exercise of this easement.

11.5. Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons; to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with the Governing Documents. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board.

11.6. Landscaping and Signage Easements. Declarant and the Association shall have perpetual, non-exclusive easements exercisable by their respective employees, agents, and contractors over those portions of the Community and the Units designated as "Landscaping and

Signage Easements" (or similar label) on the Recorded subdivision Plats relating to the Community for the purpose of installation, maintenance, repair, and replacement of lot bollards, neighborhood entrance monuments, signs, fences, lighting, irrigation systems, and landscaping within the easement area. The Declarant and Association shall have a blanket easement to pump water from any water bodies within the Community for irrigation purposes, subject to any applicable laws or regulations. No fences, structures, driveways, plantings, swings, wood piles, dog runs, or any other objects, temporary or permanent, shall be permitted in such areas without the Association's prior written approval, other than those initially installed by Declarant. Nothing herein shall obligate Declarant or the Association to exercise such easements or to construct or install any of the foregoing within any Landscaping and Signage Easement.

11.7. Easement to Inspect and Right to Correct. Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within the Community, including Units, and a perpetual, nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own expense, any damage resulting from such exercise.

11.8 Construction and Sale Easement. Notwithstanding any provisions contained in the Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration terminates and thereafter so long as Declarant owns any property in the Community for development or sale, Declarant reserves an easement across the Community for Declarant and any builder or developer approved by Declarant to maintain and carry on development activities, upon such portion of the Community as Declarant may reasonably deem necessary. This reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant, may be required, convenient, or incidental to the development, construction, and sales activities related to property within or near the Community. This easement shall include, without limitation:

- (a) The right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on, or in any portion of the Community as well as any Unit in the Community,
- (b) The right to tie into any portion of the Community with driveways, parking areas and walkways;
- (c) The right to tie into or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services;
- (d) The right (but not the obligation) to construct recreational facilities on Common Area;

Declarant shall have the right and an easement to maintain signs in the Area of Common Responsibility for ten (10) years from recording this Declaration.

No Person shall record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Community without Declarant's review and written consent. Any instrument Recorded without such consent shall be void and of no force and effect unless subsequently approved by written consent signed by Declarant and Recorded.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Use Restrictions and Rules, architectural standard, or Design Guideline made shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns any portion of the Community primarily for development and sale.

Article XIV

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

14.1. Agreement to Avoid Litigation. Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Community, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 14.2 ("Claims") shall be resolved using the procedures set forth in Section 14.3 in lieu of filing suit in any court.

14.2. Claims. Unless specifically exempted below, all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Community shall be subject to the provisions of Section 14.3.

Notwithstanding the above, unless all parties otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.3:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments);

(b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article IX (Architectural Standards) and Article X (Use Restrictions and Rules);

(c) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(d) any suit in which any indispensable party is not a Bound Party; and

(e) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.3(a).

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 14.3.

14.3. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

1. the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed resolution or remedy; and
4. that Claimant's desire to meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

(c) Mediation. If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of Henning

Any award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

14.5 Enforcement of Resolution. After resolution of any Claim, if any party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 14.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

Article XV GENERAL PROVISIONS

15.1. Duration. Subject to the limitations of Georgia law, this Declaration shall have perpetual duration. If Georgia law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall remain in effect for the maximum period permitted and shall automatically be extended at the expiration of such period for successive periods of 20 years each. Notwithstanding the above, 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.

15.2. Amendment. This Declaration may be amended as provided in this Section. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

(a) By Declarant. So long as Declarant owns any property subject to, or which may be subjected to, this Declaration, it may unilaterally amend this Declaration to (i) bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) enable any title insurance company to issue title insurance coverage; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans; or (iv) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans; provided, any such amendment shall not adversely affect the title to any Owner's Unit unless any such Unit Owner

consents in writing. Further, Declarant may unilaterally amend this Declaration for any other purpose; provided, any such amendment shall not materially adversely affect the substantive rights of any Owners hereunder, nor shall it adversely affect title to any Unit without the consent of the affected Unit's Owner.

(b) By the Owners. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Members representing at least two-thirds (2/3) of the votes in the Association and the consent of Declarant (so long as Declarant owns any of the property described in Exhibit "A" or "B").

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4. Litigation. Except as provided below, no judicial, administrative, or arbitration proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article VIII; (c) proceedings involving challenges to *ad valorem* taxation; or (d) counter-claims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article XIV, if applicable.

15.5. Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this Section shall preclude any Supplemental Declaration or other Recorded declaration, covenants, and restrictions applicable to any portion of the Community from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

15.6. Compliance. Every Owner and occupant of any Unit shall comply with the Governing Documents. Subject to the terms of Article XIV, failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

15.7. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

15.8. Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 15.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 25 day of June, 2002.

DECLARANT:

By: *Andy W. Ash* [SEAL]

Its: V.P.

Attest: *Ronnie B. Yoder* [SEAL]

Its: *Asst. Secretary*

Signed, sealed, and delivered
this 25th day of June, 2002,
in the presence of:

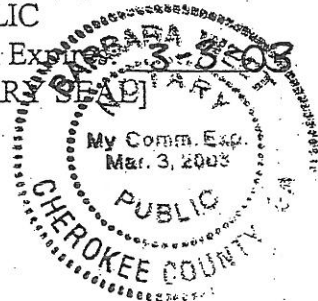
WITNESS

Barbara West

NOTARY PUBLIC

My Commission Expires

[AFFIX NOTARY SEAL]



Said common area containing approximately 20,033 square feet or 0.46 acres.

TRACT 2

All that tract or parcel of land being shown as TRACT 2 on the boundary survey prepared for D.R. Horton, Inc. - Torrey, by Polaris Surveyor's and Engineers, dated November 19, 2001, and lying in land lot 13 of the 9th District of Fulton County and being more particularly described as follows:

COMMENCING at the northeast corner of said land lot 13; thence southerly along the easterly line of said land lot 13, S06°54'54"W, 1355.71' to a 1-1/4" open top pipe and the POINT OF BEGINNING. Thence continuing along the easterly line of said land lot 13, S06°58'42"W, 477.88' to a found rock; thence departing the easterly line of said land lot 13, S88°18'30"W, 409.40' to a found rock; thence S08°58'39"W, 244.55' to a found 1/2" rebar and the northerly lot line of lot 46A of Foxwood subdivision - phase 1 as recorded in plat book 198 page 56 of the Fulton County public records; thence along the northerly lot line of said lot 46A the following two courses: S66°59'28"W, 130.45'; thence S60°16'57"W, 233.76' to the northeasterly corner of Lot 46 of the aforementioned Foxwood subdivision; thence along the northerly lot lines of lots 46, lot 45 and lot 44 of said subdivision, S89°57'33"W, 289.94'; thence along the northerly lot lines of lot 44 and lot 43 of said subdivision, S73°29'42"W, 109.93'; thence along the northerly lot line of lot 42, S42°33'55"W, 27.08'; thence along the northerly lot line of lot 40, N69°03'43"W, 134.06' to the southeasterly right-of-way of Mayfern Drive (50' right-of-way); thence across said right-of-way, N63°48'43"W, 50.00' to the northwesterly right-of-way of Mayfern Drive; thence along said northwesterly right-of-way, S26°11'17"W, 58.25' to the northeasterly corner of lot 60 of said Foxwood subdivision; thence departing said right-of-way and along the northerly lot line of said lot 60, N63°48'42"W, 135.00' to the southeasterly right-of-way of Plantation Road (60' right-of-way); thence along said right of way the following four courses: N26°06'04"E, 17.78'; thence along the arc of a curve to the left 374.62'; said curve having a radius of 3630.02', a chord bearing of N23°08'41"E, and a chord length of 374.45'; thence N20°11'18"E, 290.10' to a curve to the right; thence along the arc of a curve to the right 241.33'; said curve having a radius of 822.00', a chord bearing of N28°35'57"E, and a chord length of 240.47'; thence N88°46'57"E, 1189.16' the POINT OF BEGINNING.

Said tract containing 22.49 acres.

WRITTEN DESCRIPTION
FOR
LOT 46

All that tract or parcel of land being Lot 46 in the Foxwood subdivision - phase 1 as recorded in plat book 198 page 56 of the Fulton County public records, lying in land lot 13 of the 9F District of Fulton County and being more particularly described as follows:

COMMENCING at the northeast corner of said land lot 13; thence southerly along the easterly line of said land lot 13, S06°54'54"W, 1355.71' to a 1-1/4" open top pipe; thence continuing along the easterly line of said land lot 13, S06°58'42"W, 477.88' to a found rock; thence departing the easterly line of said land lot 13, S88°18'30"W, 409.40' to a found rock; thence S08°58'39"W, 244.55' to a found 1/2" rebar and the northerly lot line of lot 46A of the aforementioned Foxwood subdivision; thence along the northerly lot line of said lot 46A the following two courses: S66°59'28"W, 130.45'; thence S60°16'57"W, 233.76' to the northeasterly corner of Lot 46 and the POINT OF BEGINNING. Thence S40°19'07"W, 95.63' to the northerly right-of-way of Mayfern Way (50' right-of-way); thence along said right of way the following three courses: along the arc of a curve to the left 98.29'; said curve having a radius of 60.00', a chord bearing of S28°29'00"W, and a chord length of 87.66'; thence along the arc of a curve to the right 19.38'; said curve having a radius of 20.00', a chord bearing of S09°18'48"W, and a chord length of 18.63'; thence along the arc of a curve to the right 25.23'; said curve having a radius of 107.00', a chord bearing of S43°49'37"W, and a chord length of 25.17'; thence departing said right-of-way, N05°15'11"W, 126.02'; thence N39°29'10"W, 78.90' to the northerly lot line of said lot 46; thence along said northerly lot line N89°57'33"E, 185.85' to the POINT OF BEGINNING.

Said lot 46 containing approximately 12,327 square feet or 0.28 acres.

WRITTEN DESCRIPTION
FOR
LOT 46A

All that tract or parcel of land being Lot 46A in the Foxwood subdivision - phase 1 as recorded in plat book 198 page 56 of the Fulton County public records, lying in land lot 13 of the 9F District of Fulton County and being more particularly described as follows:

COMMENCING at the northeast corner of said land lot 13; thence southerly along the easterly line of said land lot 13, S06°54'54"W, 1355.71' to a 1-1/4" open top pipe; thence continuing along the easterly line of said land lot 13, S06°58'42"W, 477.88' to a found rock; thence departing the easterly line of said land lot 13, S88°18'30"W, 409.40' to a found rock; thence S08°58'39"W, 244.55' to a found 1/2" rebar and the northerly lot line of lot 46A and the POINT OF BEGINNING. Thence along the easterly lot line of said lot 46A, S08°58'39"W, 89.38'; thence along the southerly lot line of said lot 46A the following two courses: S60°16'57"W, 228.79'; thence S72°04'42"W, 137.44' to the northerly right-of-way of Mayfern Way (50' right-of-way); thence along said right-of-way and the arc of a curve to the left 42.65'; said curve having a radius of 60.00', a chord bearing of N84°13'23"W, and a chord length of 41.76'; thence departing said right-of-way N40°19'07"E, 95.63' to the northerly lot line of lot 46A; thence along said northerly lot line the following two courses: N60°16'57"E, 233.76'; thence N66°59'28"E, 130.45' to the POINT OF BEGINNING.

Said lot 46A containing approximately 30,755 square feet or 0.71 acres.

**EXHIBIT "B"****Land Subject to Annexation**

The following property is not subject to this Declaration, but may be annexed in accordance with the terms of the Declaration. Any parcel or tract of land which is:

1. Adjacent to the property described on Exhibit "A" or adjacent to property previously annexed to the Declaration.
2. Located within a one (1) mile radius of the property described in Exhibit "A".

(b) Animals. Raising, breeding, or keeping of animals of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. Those pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to

the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Quiet Enjoyment. Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Laws. Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Hobbies. Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Annoyance. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Burning. Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Dumping. Dumping of grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff;

(i) Trash. Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(j) Drainage. Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right;

(k) Subdivision. Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(l) Business. Any business, trade, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the structure located on the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Community; (iii) the business activity does not involve excessive visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door

3. Prohibited Conditions. The following shall be prohibited within the Community:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, wetlands, or other ground or surface waters within the Community, except that Declarant and the Association shall have the right to draw water from such sources; and

(d) Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Community; and (i) satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals ((i), (ii), and (iii), collectively, "Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Unit (generally being the rear yard) at which an acceptable quality signal can be received in a manner consistent with the Community-Wide Standard and the Design Guidelines, unless such screening unreasonably interferes with the use of such Permitted Device.

(e) Motorized vehicles on pathways or unpaved Common Areas, except for public safety vehicles and vehicles authorized by the Board.

EXHIBIT "D"

BY-LAWS

OF

FOXWOOD COMMUNITY ASSOCIATION, INC.

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2.3. Annual Meetings.

The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the closing of the first home or when 25% of homes in the Community have been sold, whichever is later, unless the Board determines that it is in the best interest of the Community to hold it earlier. Subsequent regular and annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 25% of the total votes in the Association.

2.5. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Association, with postage prepaid.

2.6. Waiver of Notice.

Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or the Member's proxy shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a majority of the votes represented at such meeting may

adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members represented at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting.

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

2.9. Proxies.

At all meetings of Members, each Member may vote in person (if a corporation, partnership, or trust, through any officer, director, partner, or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Georgia law. All proxies shall be in writing specifying the Unit(s) for which it is given, signed by the Member or its duly authorized attorney-in-fact, dated and filed with the Association's Secretary or his or her designee prior to any meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, Owners, Members, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

B. Meetings.

3.6. Organizational Meetings.

The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.7. Regular Meetings.

Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine.

3.8. Special Meetings.

Special meetings of the Board of Directors shall be held when called by written notice signed by the President or Vice President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

3.9. Notice; Waiver of Notice.

(a) Notice of the time and place of a regular meeting shall be communicated to directors not less than four calendar days prior to the meeting. Notice of the time and place of a special meeting shall be communicated to directors not less than 72 hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, fiberoptics, or such other electric communication device. All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Association.

Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting.

Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10. Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.11. Quorum of Board of Directors.

At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

– 3.12. Compensation.

Directors shall not receive any compensation from the Association for acting as such. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested director.

3.13. Conduct of Meetings.

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall keep a minute book of Board meetings recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings.

Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude Members, to discuss matters of a sensitive nature, such as pending or threatened litigation and personnel matters.

3.15.- Action Without a Formal Meeting.

Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16. Powers.

The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things as are not directed by the Governing Documents or Georgia law to be done and exercised exclusively by the membership generally.

3.17. Duties.

The duties of the Board shall include, without limitation:

- (a) adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;
- (b) levying and collecting such assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending use restrictions and rules in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(I) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Community; and

(n) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required under Georgia law, the Articles of Incorporation, or the Declaration.

3.18. Right of Declarant to Disapprove Actions.

So long as Declarant has the right to appoint and remove officers and directors, if Declarant voluntarily terminates such right and the Members are entitled to elect directors to the Board, Declarant shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in the sole judgment of the Declarant, would tend to impair rights of Declarant or builders under the Governing Documents, or interfere with development of or construction on any portion of the Community, or diminish the level of services being provided by the Association.

(a) Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.8, 3.9, 3.10, and 3.11 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

Declarant, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. Declarant, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board, or the Association. Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.19. Management.

The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. Declarant, or an affiliate of Declarant, may be employed as managing agent or manager. The term of any management agreement shall not exceed one year and shall be subject to termination by either party without cause and without penalty upon not more than ninety days written notice.

The Board of Directors may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.20. Borrowing.

The Association shall have the power to borrow money for any legal purpose.

3.21. Enforcement.

In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote for violation of any duty imposed under the Governing Documents. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, tenant, employee, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided, if the fine is not paid by the occupant within the time period set by the Board, the fine shall be assessed against the Unit and its Owner upon notice from the Association. The Board's failure to enforce any provision of the Governing Documents shall not be deemed a waiver of the right to do so thereafter.

(a) Notice. Prior to imposition of a fine (a late charge shall not constitute a fine) or suspending a service, the Board, or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in Article XIV of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass.

3.22. Board Standards.

While conducting the Association's business affairs, the members of the Board shall act as fiduciaries and are subject to insulation from liability as provided for directors of corporations by Georgia law and as otherwise provided by the Governing Documents. Directors shall exercise the ordinary and reasonable care of directors of a corporation subject to the business judgment rule.

A director shall act in accordance with the business judgment rule so long as the director:

- (a) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;
- (b) affirmatively undertakes to make decisions which are necessary for the Association's continued and successful operation and, when decisions are made, they are made on an informed basis;
- (c) acts on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other), and avoids participation in such decisions and actions; and
- (d) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

A director acting in accordance with the business judgment rule shall be protected from personal liability. Unless the Governing Documents require that specific action be taken, the failure to take such specific action shall not, without further showing that the Board acted in violation of the business judgment rule, be deemed a violation of a Board duty.

Board determinations of the meaning, scope, and application of Governing Document provisions shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair, non discriminatory manner and shall adhere to the procedures established in the Governing Documents.

Article IV
Officers

4.1. Officers.

The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board

prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12.

Article V Committees

5.1. General.

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

Article VI
Miscellaneous

6.1. Fiscal Year.

The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law or the Governing Documents.

6.3. Conflicts.

If there are conflicts between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the Use Restrictions and Rules, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Community as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

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

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or when sent by United States mail, first class postage prepaid:

- (a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or
- (b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

(a) By Declarant. So long as Declarant has the right to appoint and remove officers and directors, Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, Declarant may amend these By-Laws if such amendment is specifically required to enable any governmental or institutional lender, purchaser, guarantor, or insurer of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Units; provided that any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

- (b) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least two-thirds of the total votes in the Association, and the consent of Declarant, so long as Declarant has the right to appoint and remove officers and directors. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

- (c) FHA/VA Approval of Amendments. The U.S. Department of Veterans Affairs (if it is guaranteeing Mortgages in the Community or has issued a project approval for the guaranteeing of such Mortgages) and/or the U.S. Department of Housing and Urban Development (if it is then insuring any Mortgage in the Community or has issued a project approval for the insuring of such Mortgages) shall have the right to veto amendments to these By-Laws for as long as Declarant has the right to appoint and remove the Association's directors and officers.

- (d) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation, unless a later effective date is specified therein. Any

procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

If a Member consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Member has the authority so to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

600101/form update

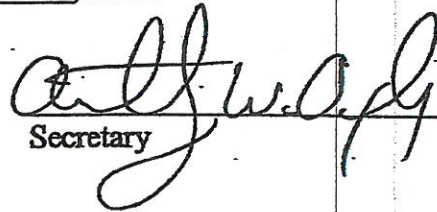
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Foxwood Community Association, Inc., a Georgia nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 26th day of June, 2002.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 26th day of June, 2002.

 [SEAL]
Secretary

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
Attn: George E. Nowack, Jr.

STATE OF GEORGIA

CROSS REFERENCE:

Deed Book 32647

Page 129

COUNTY OF FULTON

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR FOXWOOD SUBDIVISION AND SUBMISSION TO THE
GEORGIA PROPERTY OWNERS' ASSOCIATION ACT ("POAA")**

WHEREAS, Legacy Communities of Foxwood, L.L.C. ("Declarant"), recorded a Declaration of Protective Covenants, Conditions, Restrictions and Easements for Foxwood in Deed Book 32647, Page 129, et seq., Fulton County, Georgia records, as amended (hereafter the "Declaration"); and

WHEREAS, Article XV, Section 15.2 of the Declaration provides that the Declaration may be amended by two-thirds (2/3) of the votes in the Association and the consent of Declarant, so long as Declarant owns any of the property described in Exhibit "A" or "B"; and

WHEREAS, the Declarant's consent is no longer required; and

WHEREAS, at least two-thirds (2/3) of the votes in the Association have agreed to amend the Declaration by signing individual agreement forms maintained on file by the Board of Directors.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article 1, Section 1.8 of the Declaration is hereby amended by adding the following language to the end thereto:

The property subject to this Declaration constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie, 1982), as such Act may be amended from time to time.

**THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA
PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.**

**CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL
CERTIFICATES REGARDING ASSESSMENTS/CHARGES DUE ON UNITS.**

2.

Article 1 of the Declaration is hereby amended by adding the following new Section 1.26 to the end thereto:

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

3.

Article IV, Section 4.3 of the Declaration is amended by adding the word "actual" before the phrase "attorneys fees" thereto.

4.

Article VIII of the Declaration is hereby deleted in its entirety and the following is added as replacements thereto:

4.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments; (ii) special assessments; and (iii) specific assessments including, but not limited to, such other amounts that may be imposed in accordance with the terms of this Declaration and the Act.

All such assessments, together with charges, interest, costs, and reasonable attorneys' fees actually incurred (including post-judgment attorney fees, costs and expenses), and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Unit and shall be a continuing lien upon the Unit against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Unit at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. The Association, in the Board's discretion may, but shall not be obligated to, record a notice of such lien in the Fulton County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. No Owner may exempt himself or herself from liability, or otherwise withhold payment of the monthly maintenance charge or other assessments, for any reason whatsoever including, but not limited to, nonuse of the Common Property, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

4.6 Lien. The lien provided for herein shall have priority as provided in the Act.

4.7 Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

If the annual assessment, any part or installment thereof, or any other fine, special assessment or charge is not paid in full within ten (10) days of the due date, or such later date as may be provided by the Board:

(a) a late charge equal to the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner;

(b) interest at the rate of ten percent (10%) per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date; and

(c) upon thirty (30) days' written notice to the Owner, the Board may accelerate and declare immediately due all of that Owner's unpaid installments. Upon acceleration, that Owner shall thereby lose the privilege of paying any and all assessments and charges in installments for that fiscal year, unless such privilege is otherwise reinstated in the Board's sole discretion.

(d) If assessments, fines or other charges, or any part thereof, remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Owner's and occupant's rights to vote and use the Common Property shall be automatically suspended until all amounts owed are paid in full (provided, however, the Board may not deny ingress or egress to or from a Unit), and the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law, including reasonable attorneys' fees actually incurred. Enforcement under this subsection is not dependent upon or related to other restrictions and/or other actions.

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments, and then to current assessments. Late charges may be assessed on delinquencies which are created by the application of current payments to outstanding delinquent assessments or charges.

4.11 Statement of Account. Any Owner, mortgagee, or a person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Unit. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars or such higher amount as may be authorized under the Act, as a prerequisite to the assessments due on the Unit as of the date specified therein. The Association may require an additional fee not to exceed twenty five (\$25.00) dollars, if the Association provides a copy of the Declaration and Bylaws to any such Person in connection with a closing or otherwise upon request.

4.12 Computation of Operating Budget and Assessment. To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Community, which may include a reserve contribution as provided below. The Board shall provide the budget to the Owners at least 21 days before the due date of such assessment, or the first installment thereof. The budget and the assessment shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove them at a duly called membership meeting.

If the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine a new budget, the budget then in effect shall continue until a new budget is adopted as provided herein. The Board may adopt an adjusted budget at any time during the year following the procedure specified above.

The budget shall not operate as a limitation on expenditures by the Board of Directors. The budget is merely an estimate of Common Expenses on which the Board establishes the annual assessment.

4.13 Special Assessments. In addition to the all other assessments and charges provided for herein, the Board of Directors may levy a special assessment against all Owners for any purpose. Special assessments totaling more than \$500.00 per Unit in any fiscal year must first be approved by at least a majority of those Owners either voting by written consent or by ballot pursuant to the Bylaws, or at least a majority of those Owners present or represented by proxy at a duly called meeting of the members, notice of which shall specify the purpose of such meeting.

4.14 Capital Budget and Contribution. The Board of Directors may prepare an annual or multi-year capital reserve budget and may establish a capital reserve fund contribution based on such budget. Capital reserve budgets should take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

4.15 Capital Contribution Assessment Upon Transfer of Units. In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Unit, other than to the spouse or heir of the Owner, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment"). The Capital Contribution Assessment shall be an amount equal to the annual assessment applicable to such Unit at the time of such conveyance or transfer.

The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Unit, a continuing lien against such Unit, and a personal obligation of the Owner of such Unit.

4.16 Specific Special Assessments. Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments pursuant to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

5.

Article X, Section 10.4 (b) of the Declaration shall be amended by deleting the words "For Rent" thereto.

6.

Article X, Section 10.4 (f) of the Declaration is hereby deleted in its entirety.

7.

Section 2 of Exhibit "C" of the Declaration is hereby amended by adding a new subsection (q) as follows:

(q) Leasing. In the event an Owner sells or leases his or her Unit, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Unit and such other information as the Board may reasonably require. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section.

In order to protect the equity of the individual Unit Owners at Foxwood, and to carry out the purpose for which the Community was formed by preserving the character of the Community as a homogenous residential community of predominantly owner-occupied homes, leasing of Units shall be governed by the restrictions imposed by this Section. Except as provided herein, leasing of Units is prohibited.

(i) Definitions.

(A) "Grandfathered Owner" means an Owner of a Unit who is lawfully leasing his or her Unit on Effective Date. Grandfathering shall apply only to the Unit owned by such Grandfathered Owner on the Effective Date. Grandfathering hereunder shall continue only until the date the Grandfathered Owner conveys title to the Grandfathered Unit to any other person (other than the Owner's spouse). Upon such event, the Unit shall automatically lose grandfathering hereunder.

(B) "Grandfathered Unit" means the Unit owned by a Grandfathered Owner on the Effective Date hereof.

(C) "Leasing" means the regular occupancy of a Unit by any person(s) other than: (1) the Owner or a parent, child or spouse of an Owner, or (2) a person who occupies the Unit with the Owner or parent, child or spouse of the Owner occupying the Unit as his or her primary residence. For purposes hereof, occupancy by one roommate of an Owner who occupies the Unit as such Owner's primary residence shall not constitute leasing hereunder. If an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, manager or member of such limited liability company, partner of such partnership, beneficiary or other designated agent of such trust, or agent of such other legal entity shall be deemed an Owner of such Unit for purposes of this subsection. Such person's designation as an Owner of such Unit pursuant to this subsection shall terminate automatically upon the termination of such person's relationship with the entity holding record title of the Unit.

(ii) Leasing Permit and Restriction. No Owner of a Unit may lease his or her Unit unless: (1) the Owner is a Grandfathered Owner, (2) the Owner is not a Grandfathered Owner but has received a written permit from the Board of Directors authorizing leasing, or (3) the Owner is not a Grandfathered Owner but has received a hardship leasing permit from the Board as provided below.

Non-Grandfathered Owners who want to lease their Units may do so only if they have applied for and received from the Board of Directors either a Leasing Permit or a Hardship Leasing Permit. Leasing Permits will be issued as provided herein. To be eligible for a Leasing Permit, an Owner must have his primary residence in the State of Georgia. Such a Leasing Permit or Hardship Leasing Permit will allow an Owner to lease his or her Unit, provided that such leasing is in strict accordance with the terms of the permit and this Section. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All Leasing Permits and Hardship Leasing Permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

Owner's request for a Leasing Permit or Hardship Leasing Permit shall be approved if (1) all requirements of the Declaration are met; and (2) the total of (a) outstanding permits and (b) Grandfathered Units is less than ten percent (10%) of the total Units in the Community.

Leasing Permits and Hardship Leasing Permits are automatically revoked upon the sale or transfer of the Unit to a third party (excluding sales or transfers to an Owner's spouse).

If the number of current Leasing Permits and Hardship Leasing Permits issued plus Grandfathered Units is more than ten percent (10%) of the total number of Units, then no additional leasing permits shall be issued until that number falls below ten percent (10%). Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued a permit, if they so desire, when such number falls below ten percent (10%).

(iii) Hardship Leasing Permits. If the failure to lease will result in an undue hardship to the Owner, then the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship leasing permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Community if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) an Owner dies and the Unit is being administered by his or her estate; or (3) an Owner takes a leave of absence or temporarily relocates out of the metropolitan-Atlanta area and intends to return to reside in the Unit within one (1) year.

Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant. Hardship leasing permits shall be automatically revoked if, during the term of the permit, the Owner is approved for and receives a leasing permit.

(iv) Leasing Provisions. When leasing is permitted under this Section, it shall be governed by the following provisions:

(A) Notice. At least seven (7) days before entering into a lease, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If a lease is disapproved, the Board shall notify the Owner of the action to be taken to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(B) General. Units may be leased only in their entirety; no rooms or fractions of Units may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(C) Liability for Assessments; Use of Common Property; and Compliance. Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease

by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

- (1) **Compliance with Declaration, Bylaws, and Rules and Regulations.** The Owner and lessee shall comply with all provisions of the Declaration, Bylaws, Architectural Control Guidelines and Association rules and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all occupants of his or her Unit to comply with the Declaration, Bylaws, and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation.

If a Unit is leased or occupied in violation of this Section or if the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the Owner and to suspend all voting and/or Common Property use privileges of the Owner, Occupants and unauthorized tenant(s).

If a Unit is leased or occupied in violation of this Section, the Association may require the Owner to evict the tenant. If the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the Owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. Alternatively, the Association may require the Owner to evict the violating tenant. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction, shall be an assessment and lien against the Unit.

- (2) **Use of Common Property.** The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property.

- (3) **Liability for Assessments.** When an Owner who is leasing his or her Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly

rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(v) Applicability of this Section. Notwithstanding the above, this Section shall not apply to any leasing transaction entered into by the Declarant, the Association, or by any first Mortgagee who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Such parties shall be permitted to lease a Unit without first obtaining a permit in accordance with this Section, and such Units shall not be considered as being leased in determining the maximum number of Units that may be leased in accordance with this Section.

8.

Article XV, Sections 15.1 and 15.2 of the Declaration is amended by deleting those Sections in their entirety and replacing it with the following new Section 15.1 and 15.2:

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

15.2 (a) Amendment. Member Approval Procedure. Except where a higher vote is required for action under any other provisions of this Declaration, the Bylaws or by the Act, this Declaration may be amended with the approval of Owners holding 2/3 of the total Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Fulton County, Georgia land records.

(b) Default Approval Procedure After Owner Non-Response. It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending this Declaration or the Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of the Bylaws. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail and to the address consistent with the notice provision of the Bylaws, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the

amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

(c) Eligible Mortgage Holder Approval. In addition to approval by the Owners as provided above, material amendments to this Declaration and the Bylaws must be approved by Eligible Mortgage Holders who represent at least 51% of the votes of Units that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within 30 days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

(d) Amendments to Comply with Law or Conform Documents. Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration and the Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Bylaws, the Articles, and applicable laws.

(e) Validity of Amendments. No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the Bylaws more than one year after the recording thereof in the Fulton County, Georgia land records.

9.

Article VIII, Section 8.4(b) of the Declaration is amended by deleting \$200 as the amount of the Initiation Fee and replacing it with \$300, and by deleting \$150 as the amount of the disbursement of the Initiation Fee for operating expenses and replacing it with \$200, and by deleting \$50 as the amount of the disbursement of the Initiation Fee for a long term Maintenance Reserve and replacing it with \$100. So, as amended, Article VIII, Section 8.4(b) shall read as follows:

Upon acquisition of record title to a Unit by the first Owner other than Declarant or a builder, a contribution of \$300 ("Initiation Fee") shall be made by or on behalf of the purchaser to the Association as set forth below. The Initiation Fee shall be in addition to, not in lieu of any annual or special assessments. The Initiation Fee shall be payable at Closing, shall not be prorated, and the Association shall have all rights under the Declaration for enforcement of assessments if it is not paid. The Initiation Fee shall be deposited into an account of the Association and disbursed from that account (a) \$200 for operating expenses and costs of the Association in accordance with the Declaration and Bylaws, as amended, and (b) \$100 of the Initiation Fee shall be held by the Association as a long term "Maintenance Reserve" to be disbursed by the Association for maintenance of any property which the Association is required or permitted to maintain in its sole discretion. The Initiation Fee referred to in this paragraph is payable only one time, and will not be charged to subsequent purchasers of the Unit.

IN WITNESS WHEREOF, the undersigned officers of the Foxwood Community Association, Inc., hereby certify that the above Amendment to the Declaration was passed by the Board of Directors of the Association and the Declarant.

This 12 day of May, 2010.

Sworn to and subscribed before
me this 12 of May,
2010

V. W.
Witness

M. R. H.
Notary Public
[Notary Seal]
EXP. 12-13
NOTARY SEAL
PUBLIC, GA.
FULTON COUNTY, GA.

ASSOCIATION:
FOXWOOD COMMUNITY ASSOCIATION, INC.

By: Mark C. Walder
President

Attest: Natake R. Hennessy
Secretary

[CORPORATE SEAL]