

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE BAY COLONY

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## TABLE OF CONTENTS

<u>Article</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
I		DEFINITIONS	
	1	Definition	2
II		PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO	
	1	Property Hereby Subjected to This Declaration	5
	2	Additions to the Properties	5
	3	Additional Owners to Become Members	8
	4	Mergers	8
III		MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION	
	1	Membership	9
	2	Voting Rights	9
IV		PROPERTY RIGHTS IN THE ASSOCIATION PROPERTIES	
	1	Easements of Enjoyment	10
	2	Title to Association Properties	11
	3	Extent of Easements	11
	4	Easement for Encroachments	13
V		ASSESSMENTS	
	1	Creation of the Lien and Personal Obligation of Assessments	13
	2	Purpose of Assessments	14
	3	Annual Assessments	15
	4	Special Assessments for Capital Improvements	17
	5	Quorum for Any Action Authorized Under Sections 3 and 4	17
	6	Rate of Assessment	18

Article	Section	Subject	Page
V		(continued)	
	7	Date of Commencement of Annual Assessments; Due Dates	18
	8	Effect of Non-Payment of Assessments: The Personal Obligation of the Owner; The Lien; Remedies of the Association	19
	9	Subordination of the Charges and Liens to Mortgages	21
	10	Exempt Property	22
	11	Working Capital Fund	22
VI		ADMINISTRATION	
	1	Responsibility for Administration	22
	2	Management Agreements	23
	3	Other Agreements	24
	4	Limitation of Liability; Indemnification	24
VII		INSURANCE AND CASUALTY LOSSES	
	1	Insurance	25
	2	Damage and Destruction	26
	3	Fidelity Bonds	28
VIII		CONDEMNATION	
	1	Procedure	29
IX		ARCHITECTURAL CONTROL	
	1	Construction; Review and Approval	30
X		EXTERIOR MAINTENANCE	
	1	Association Properties	30
	2	Lots	31

<u>Article</u>	<u>Section</u>	<u>Subject</u>	<u>Page</u>
XI		PROTECTIVE COVENANTS	
	1	Land Use and Building Type	31
	2	Fences and Walls	31
	3	Dwelling size	32
	4	Building Location	32
	5	Nuisances	32
	6	Temporary Structures	32
	7	Signs	32
	8	Oil and Mining Operations	33
	9	Livestock and Poultry	33
	10	Garbage and Refuse Disposal	33
	11	Sewage Disposal	33
	12	Water Supply	33
	13	Sight Distance at Intersections	34
	14	Recreational Vehicles	34
	15	Boat Docks	34
	16	Exterior of Buildings	34
	17	Construction	35
	18	Governmental Regulations	35

Article	Section	Subject	Page
XII		GENERAL PROVISIONS	
	1	Duration	35
	2	Amendments	36
	3	Notices	37
	4	Enforcement	37
	5	Notice of Default to Mortgagees	38
	6	Consent of First Mortgagees Regarding Exterior Appearance	38
	7	Priority of First Mortgagees	39
	8	Leasing of Lots	39
	9	Severability	39
	10	Authorized Action	39
	11	Captions	40
	12	Gender	40

**DECLARATION  
OF  
COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
THE BAY COLONY**

STATE OF GEORGIA

COUNTY OF FORSYTH

THIS DECLARATION, made this 10th day of March, 1982 by the Hamilton Corporation, a Tennessee corporation, d/b/a Hamilton Land Company (hereinafter called the "Declarant");

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of the property described in Exhibit "A" attached hereto and, by reference, made a part hereof and desires to create thereon an exclusive residential community having certain amenities for the use and benefit of all property owners within such community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of the amenities; and, to this end, desires to subject the property described in Exhibit "A", together with such additions as may hereafter be made pursuant to Article II hereof, to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter set forth, each of which is intended for the benefit of said property and each owner of any part thereof; and

WHEREAS, the Declarant deems it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which can be delegated and assigned the power and authority of maintaining and administering the amenities, administering and enforcing the covenants governing same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement, as hereinafter provided; and

WHEREAS, the Declarant has caused to be incorporated under the laws of the State of Georgia a non-profit corporation known as The Bay Colony Community Association, Inc. for the purpose of exercising the functions aforesaid and which are hereinafter more fully set forth;

NOW, THEREFORE, the Declarant hereby declares that the property described in Exhibit "A" attached hereto and, by reference, made a part hereof and such additions thereto as may hereafter be made pursuant to Article II hereof is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, easements, affirmative obligations, charges and liens (hereinafter sometimes referred to as the "Covenants") hereinafter set forth.

## ARTICLE I

### DEFINITIONS

Section 1. Definitions. The following words and terms when used in this declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to The Bay Colony Community Association, Inc., a Georgia non-profit corporation, its successors and assigns.

(b) "Association Properties" shall mean and refer to all property and improvements thereon, if any, now or hereafter owned, leased, or in the possession of the Association including, but not limited to, that property which is designated Association Properties on the plat of survey referred to in Exhibit "B" attached hereto and, by reference, made a part hereof, which exhibit contains a legal description of the Association Properties to be owned by the Association at the time of the conveyance of the first Lot shown on said plat of survey to an owner for purposes of residential occupancy. All Association Properties are to be devoted to and are intended for the common use and enjoyment of the owners, their families, guests of the owners, persons occupying residential accommodations of owners on a guest or tenant basis, and visiting members of the general public (to the extent permitted by the Association's Board of Directors) subject to the published rules and regulations adopted by the Association's Board of Directors; provided, however, that any property leased by the Association shall lose its character as Association Properties upon the expiration of such lease.

(c) "Declarant" shall mean and refer to (1) Hamilton Corporation, a Tennessee corporation, d/b/a Hamilton Land Company, the person executing this Declaration, or (2) any successor-in-title to said person to all or some portion of the property then subject to this Declaration; provided, however, that such successor-in-title shall acquire such property for purposes of development or sale; and, provided further, that in the instrument of conveyance to any such successor-in-title, such successor-in-title is expressly designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; or (3) should any of the property subject to this Declaration become subject to a first mortgage given by "Declarant" as security for the repayment of a loan,

then all of the rights, privileges and options herein reserved to "Declarant" shall inure to the benefit of the holder of such mortgage upon becoming the owner of all the property then subject thereto through whatever means, or the purchaser of all such property at a judicial or foreclosure sale made pursuant to any power of sale contained in such mortgage; provided, however, that all rights, privileges and options herein reserved to "Declarant" may be transferred to the successor-in-title of any such acquirer of title to such property, provided any such successor-in-title shall acquire for the purpose of development or sale all or some portion of such property; and, provided further, that in the instrument of conveyance to such successor-in-title, such successor-in-title is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance. In the event that persons specified in both (2) and (3) above become entitled to succeed to the interests of "Declarant" as therein provided, then, as between such persons, any person entitled to be "Declarant" by virtue of (3) above, shall be "Declarant" instead of any person entitled to be Declarant by virtue of (2) above.

(d) "Lot" shall mean and refer to any improved or unimproved parcel of land located within the Properties which is used or intended for use as a site for a single family dwelling and which is shown on any recorded plat of any part of the Properties.

(e) "Member" shall mean and refer to all those persons who are members of the Association as provided for in Article III, Section 1, hereof.

(f) "Mortgage" shall mean and refer to any security instrument by means of which title to property is conveyed or encumbered to secure a debt including, but not limited to, security deeds, loan deeds and deeds to secure debt.

(g) "Mortgagee" shall mean and refer to the holder of record, whether it be one or more persons, of a mortgage.

(h) "Owner" shall mean and refer to the record owner, whether it be one or more persons, of fee simple title to any real property situated within the Properties excluding, however, the Association and those persons having such interest merely as security for the performance of an obligation.

(i) "Person" shall mean and refer to an individual, corporation, partnership, association, trust or any other legal entity.

(j) "Properties" shall mean and refer to the property described in Exhibit "A" attached hereto and, by reference, made a part hereof and such additions thereto as may be made pursuant to Article II hereof.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION:

#### ADDITIONS

#### THERE TO

Section 1. Property hereby Subjected to this Declaration. The property which is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to these Covenants consists of that which is described in Exhibit "A" attached hereto and, by reference, made a part hereof.

Section 2. Additions to the Properties. Additional property may become subject to this Declaration in the following manner:

(a) Additions by the Declarant as a Matter of Right. The Declarant, its successors or assigns, shall have the right, without consent of the Association, at any time or times on or before December 31, 1988, to bring within the scheme of this Declaration and make a part of the

Properties all or any portion of the property described in Exhibit "C" attached hereto and, by reference, made a part hereof not heretofore made a part of the Properties; provided, that such annexation shall require the prior written determination of the Veterans Administration as being in accordance with the general plan of development attached hereto as Exhibit "D" and, by reference, made a part hereof or such

other general plan of development as may be approved by the Veterans Administration if approval by the Veterans Administration of the Properties and legal documents relative thereto is then in effect; and provided further that, should the Declarant, its successors or assigns, elect not to subject such property or any part thereof to the scheme of this Declaration, the Declarant, its successors or assigns, shall not be obligated to impose covenants thereon the same as or similar to the Covenants contained herein. All taxes and other assessments relating to any property thus annexed, covering any period prior to such annexation, must be paid or otherwise satisfactorily provided for by the Declarant. Notwithstanding anything contained herein which might be otherwise interpreted to produce a contrary result, this Declaration does not create any charge, lien or any other encumbrance or restriction on or affect in any way the title to any property other than that which is described in Exhibit "A" attached hereto and, by reference, made a part hereof. The additions authorized under this subsection shall be made by filing of record one or more Supplementary Declarations with respect to the additional properties, executed by the Declarant, its successors or assigns, which shall extend the scheme of the Covenants contained herein to such properties and thereby subject such additions to assessment for their just share of the Association expenses. Said Supplementary Declarations may contain such complementary additions and modifications of the Covenants contained herein as may be necessary to reflect the different character of the additional properties (e.g., single family attached residences, condominium residences, apartments or commercial facilities) and as are not inconsistent with the scheme of this Declaration; provided, however, that improvements constructed or to be constructed on such additional properties shall be compatible in terms of exterior design, general quality and quality of construction with the improvements constructed or to be constructed on the property described in Exhibit "A" attached hereto. In no event, however, shall any such Supplementary Declaration revoke, modify or add to the Covenants established by this Declaration regarding the property described in said Exhibit "A".

(b) Additions Pursuant to Association Approval. Upon approval in writing of the Association pursuant to a vote of its members and upon compliance with such terms and conditions as may be imposed by the Association pursuant to such vote, the owner of any property, other than that which may be subjected to the scheme of this Declaration by the Declarant, its successors or assigns, as a matter of right, who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration as described in subsection (a) above except that each such Supplementary Declaration shall be executed jointly by the owner of the property thus being added and the Association. All taxes and other assessments relating to property thus annexed, covering any period prior to such annexation, must be paid or otherwise satisfactorily provided for by the owner of the property thus being annexed. Notwithstanding the foregoing, improvements constructed or to be constructed on such additional properties shall be compatible in terms of exterior design, general quality and quality of construction with the improvements constructed or to be constructed on the property described in Exhibit "A" attached hereto. Approval by the Association shall require the assent of two-thirds (2/3) of the votes of each class of members of the Association voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least 30 days in advance and shall set forth the purpose of the meeting. The quorum required for such meeting shall be the presence thereat of members and/or proxies entitled to cast sixty percent (60%) of the votes of each class of members of the Association. If the required quorum is not forthcoming at such meeting, another meeting may be called, subject to the notice requirements set forth herein, and the required quorum at any such subsequent meeting shall be forty percent (40%) of the votes of each class of members of the Association; provided, however, that no such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 3. Additional Owners to Become Members. Upon the filing of any Supplementary Declaration as provided for in Section 2 of this Article II, the owners of such property shall become members of the Association and, subject to the provisions of Article III hereof, such owners and their successors in title shall thereby acquire with respect to such property, the rights and privileges granted herein to members of the Association.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants contained herein within the Properties, together with the covenants and restrictions established upon any other properties as one plan. Except as hereinafter provided, no such merger or consolidation shall effect any revocation, change of or addition to the Covenants established by this Declaration within the Properties. No such merger or consolidation shall be effective, however, unless first approved by the Association's Board of Directors and by members entitled to cast at least two-thirds (2/3) of the votes of each class of members.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The membership of the Association shall consist of (a) every record owner, whether it be one or more persons, of fee simple title to any real property situated within the Properties excluding, however, the Association and those persons having such interest merely as security for the performance of an obligation, and (b) the Declarant subject to the following provisions of this Article III. Membership shall be appurtenant to and may not be separated from ownership of such real property, which ownership shall be the sole qualification for membership.

Section 2. Voting Rights. Subject to the following provisions of this Section 2, the Association shall have two classes of voting membership: Class "A" and Class "B".

CLASS "A": Class "A" members shall be all those owners of Lots with the exception of the Declarant (except as set forth under Class "B" membership provisions below). A Class "A" member shall be entitled to one vote for each Lot which he owns.

CLASS "B": The Class "B" member shall be the Declarant. The Class "B" member shall be entitled to three votes for each Lot which it owns. The Class "B" membership shall cease and be converted to Class "A" membership upon the first of the following events to occur: (a) when the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership unless (i) the Declarant at that time has the right to annex additional property pursuant to Article II, Section 2(a), of the Declaration sufficient in quantity so that, if annexed, the votes of the Class "B" member would exceed those of the Class "A" members, and (ii) the Declarant evidences its intent to exercise such right within a reasonable time thereafter by filing an affidavit to that effect with the Association and, provided that approval by the Veterans Administration of the Properties and legal documents relative thereto is then in effect, the Veterans Administration, (b) abolishment by the Declarant of its Class "B" membership evidenced by written notice thereof delivered to the Association, or (c) December 31, 1988.

When any property entitling the owner to membership as a Class "A" member of the Association is owned of record by other than a single natural person, the person entitled to cast the vote for such property shall be designated by a certificate signed by the record owner or owners of such property and filed with the Secretary of the Association. Each such certificate shall be valid until revoked, superseded by a subsequent certificate or a change occurs in the ownership of such property.

The votes of the members shall be cast under such rules and procedures as may be prescribed in this Declaration or in the By-Laws of the Association, as amended from time to time, or by law.

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE ASSOCIATION PROPERTIES

Section 1. Easements of Enjoyment. Subject to the provisions of these Covenants, the rules and regulations of the Association and any fees or charges established by the Association, every member of the Association shall have an easement of enjoyment in and to the Association Properties and such easement shall be appurtenant to and shall with title to every member's Lot.

Section 2. Title to Association Properties. The Declarant may retain legal title to the Association Properties described in Exhibit "B" attached hereto and, by reference, made a part hereof until the first conveyance of a Lot shown on the plat of survey referred to therein to an owner for purposes of residential occupancy. Prior to or simultaneously with such conveyance, the Declarant shall convey said Association Properties to the Association free and clear of all liens and encumbrances together with all improvements thereon which must then be fully completed. If, as and when additional property is subjected to the scheme of this Declaration pursuant to Article II hereof, the owner thereof shall, prior to or simultaneously with the first conveyance of a Lot contained therein to an owner for purposes of residential occupancy, convey all Association Properties comprising a part of such additional property to the Association free and clear of all liens and encumbrances together with all improvements thereon which must then be fully completed.

Section 3. Extent of Easements. The rights and easements of enjoyment in and to the Association Properties created hereby shall be subject to the following:

(a) The right of the Declarant to the exclusive use of portions of the Association Properties reasonably required, convenient or incidental to, the improvement and sale of Lots including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such right of the Declarant may be delegated by it to developers and builders having an interest in the Properties, shall be exercised so as to avoid any unnecessary inconvenience to or infringement upon the rights of others and shall continue until such time as such persons no longer own any Lot primarily for the purpose of sale or December 31, 1988, whichever shall first occur, without affecting any member's obligation to pay assessments coming due during such period of time or the permanent charge and lien on any member's Lot in favor of the Association;

(b) The right of the Association to borrow money for the purpose of improving the Association Properties and, with the prior written approval of members entitled to cast at least two-thirds (2/3) of the votes of each class of members or holders of at least two-thirds (2/3) of all first mortgages secured by Lots, to mortgage or otherwise burden or encumber said Association Properties;

(c) The right of the Association to take such steps as are reasonably necessary to protect the Association Properties against foreclosure;

(d) The right of the Association to suspend the voting rights and right to use any Association recreational facilities of any member for any period during which any such member's assessment remains unpaid, and for a period not to exceed 60 days for any infraction by such member of its published rules and regulations;

(e) The right of the Association to charge reasonable admission and other fees for the use of any Association recreational facilities;

(f) The right of the Association to abandon, partition, subdivide, sell, dedicate or transfer all or any part of the Association Properties for such purposes and subject to such conditions as may be agreed to by the members entitled to vote thereon, provided that no such abandonment, partition, subdivision, sale, dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless first approved in writing by members entitled to cast at least two-thirds (2/3) of the votes of each class of members or holders of at least two-thirds (2/3) of all first mortgages secured by Lots and, in the case of a dedication, and, provided that approval by the Veterans Administration of the Properties and legal documents relative thereto is then in effect, the Veterans Administration; and

(g) The right of the Association to grant such easements and rights of way to such utility companies or public agencies or authorities as it shall deem necessary or desirable for the proper servicing and maintenance of the Association Properties or other property.

Section 4. Easement for Encroachments. To the extent that any Lot or Association Properties encroach on any other Lot or Association Properties, whether by reason of any deviation from the plats in the construction, repair, renovation, restoration or repair of any improvement, or by reason of the settling or shifting of any land or improvement, a valid easement for such encroachment shall exist. The purpose of this section is to protect the Association and Lot owners, except in cases of willful and intentional misconduct by them or their agents or employees, and not to relieve the Declarant or any contractor, subcontractor or material man of any liability which any of them may have by reason of any failure to adhere to the plat.

## ARTICLE V

### ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants and each owner shall by acceptance of a deed, whether or not it shall be so expressed in such deed, be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (a) annual assessments or charges; and (b) special assessments or charges for the purposes set forth in Section 4 of this Article V, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge and continuing lien on the property and improvements thereon against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment first became due and payable. In the case of co-ownership of such property, all of such

co-owners shall be jointly and severally liable for the entire amount of the assessment. Should the Association employ an attorney to collect any assessment, it shall be entitled to collect in addition thereto all costs of collection including reasonable attorney's fees.

Section 2. Purpose of Assessments. The annual assessments levied by the Association shall be used exclusively for the acquisition, improvement, maintenance, and operation of the Association Properties; payment for services which the Association is authorized to provide including, but not limited to, taxes and insurance on the Association Properties, construction of improvements on the Association Properties, and repair, replacement and additions to the Association Properties; payment of the cost of labor, equipment, materials, management and supervision necessary to carry out its authorized functions; payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized functions; establishment and maintenance of an adequate reserve fund for maintenance, repairs and replacement of those portions of the Association Properties that must be replaced on a periodic basis; and other charges as may be required by this Declaration or that the Association or its Board of Directors shall determine to be necessary to meet the primary purposes of the Association. Special assessments shall be used for the purposes set forth in Section 4 of this Article V. Notwithstanding the levy of annual or special assessments as aforesaid, the Association shall be entitled to charge a reasonable user's fee for recreational facilities comprising a part of the Association Properties. First mortgagees of Lots and the first mortgagee, if any, of the Association Properties may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association Properties and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Association Properties and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. Each owner shall be responsible for his own return of taxes on his Lot and for the payment of all taxes and governmental assessments, if any, assessed thereon by the taxing authorities.

Section 3. Annual Assessments. Until the year beginning January 1, 1983, the annual assessment shall not exceed \$75.00 per Lot.

From and after January 1, 1983, the maximum annual assessment shall be increased automatically, effective January 1st of each year, in conformance with the rise, if any, of the numerical rating for the preceding month of June above such rating for June, 1981, as established by the Atlanta, Georgia, Consumer Price Index for Urban Wage Earners and Clerical Workers, Series A-27, (published by the Department of Labor, Washington, D.C.), the successor thereto or other comparable price index should that described herein be discontinued or no longer made available to the Association.

The method of computation to be employed when using the Consumer Price Index referred to above shall be as follows: The Consumer Price Index numerical rating for the month of June, 1981, is 272.8. This will be the base rating. To determine the adjustment percentage to be applied for any subsequent year, divide this base rating (272.8) into the numerical rating established by the Consumer Price Index for the month of June preceding the proposed assessment year. The adjustment percentage, if in excess of 100 percentum, shall be multiplied by the original maximum annual assessment specified herein to obtain the maximum annual assessment for the proposed assessment year. In the event that the adjustment percentage should be equal to or less than 100 percentum, the maximum annual assessment for the proposed assessment year shall be the same as or equal to the original maximum annual assessment specified herein.

From and after January 1, 1983, the maximum annual assessment for any succeeding year may be increased above that established by the Consumer Price Index formula provided that any such increase shall have the assent of at least two-thirds (2/3) of the votes cast by each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

The Association's Board of Directors shall, after consideration of current costs and future needs of the Association, fix the actual annual assessment for any particular year at an amount not to exceed the applicable maximum annual assessment. However, if the Board of Directors should fix such annual assessment at an amount less than the maximum annual assessment and it is subsequently determined by the Board that the amount assessed will not be sufficient, the Board shall have the power to make supplemental annual assessments but in no event shall the sum of the initial and supplemental annual assessments in any one year exceed the applicable maximum. Should the Board of Directors fail to fix the annual assessment for any particular year, the prior year's assessment shall be continued automatically until such time as the Board shall act.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessment authorized by Section 3 hereof, the Association's Board of Directors may levy special assessments for the purpose of defraying, in whole or in part, the cost of: construction or reconstruction on the Association Properties; unexpected maintenance, repair or replacement of the Association Properties and capital improvements thereon, if any, including the necessary fixtures and personal property related thereto; additions to the Association Properties; necessary facilities and equipment to offer the services authorized herein; and repayment of any loan made to the Association to enable it to perform the duties and functions authorized herein; provided, however, that any such assessment shall have the assent of two-thirds (2/3) of the votes cast by each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. Such special assessments in any one year may not exceed a sum equal to the amount of the annual assessment for such year except for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss and may not be used to fund the reserve for maintenance, repairs or replacement of those portions of the Association Properties that must be replaced on a periodic basis.

Section 5. Quorum for any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided for in Sections 3 and 4 of this Article V, the presence at the meeting of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of members shall constitute a quorum. If the required quorum is not forthcoming at the first meeting called, not more than two subsequent meetings may be called, subject to the notice requirements set forth in said Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Rate of Assessment. Unless otherwise expressly provided herein or in any Supplemental Declaration regarding property of a different character, both annual and special assessments shall be fixed at a uniform rate. Any amendment to this Declaration for the purpose of changing the method of determining or rate of assessments shall require, in addition to the requirements set forth in Article XI, Section 2, hereof, the prior written approval of holders of at least two-thirds (2/3) of all first mortgages secured by Lots.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for in this Article V shall be established on a calendar year basis and shall commence as to all Lots on the first day of the months following conveyance to the Association of the Association Properties subjected to this Declaration simultaneously with such Lots. Each such annual assessment shall be adjusted according to the number of months remaining in the calendar year. Each such adjusted assessment shall be paid by the owner to the Association in equal monthly installments unless otherwise provided by the Association's Board of Directors. Thereafter, the Board of Directors shall fix the amount of the annual assessment and send written notice of same to every owner subject thereto at least 30 days in advance of each annual assessment period. Unless otherwise provided by the Board of Directors, one-twelfth (1/12) of the annual assessment for each Lot shall become due and payable on the first day of each month during the assessment period and shall be paid to the Association when due without further notice from the Association. The due date of any special assessment shall be fixed in the resolution authorizing such special assessment.

The Association shall, within five days after written request therefore, furnish to any member liable for an assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. A reasonable charge, as determined by the Association's Board of Directors, may be made for the issuance of such certificates. Any such certificate shall be conclusive evidence, against all but the member, of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessments: The Personal Obligation of the Owner; The Lien; Remedies of The Association.

(a) If an assessment is not paid on or before the date when due (being the dates specified in Section 7 hereof, unless otherwise provided by the Board of Directors), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot of the member which shall bind such Lot in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the member to pay such assessment shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. If such successors in title assume such member's personal obligation such member shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer; and such member and such successors in title assuming such liability shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such member and such successors in title creating the relation of principal and surety as between themselves.

(b) If an assessment is not paid within 30 days after the due date, such assessment shall bear interest from said due date at the rate of twelve percent (12%) per annum, and the Association may bring legal action against the member personally obligated to pay the same or foreclose its lien against such member's Lot, in which event, interest, costs and attorney's fees equal to fifteen percent (15%) of the principal amount shall be added to the amount of such assessments as may then be due. Each member, by his acceptance of a deed to his Lot, vests in the Association the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in any appropriate proceeding at law or in equity. The lien provided for in this Article V shall be in favor of the Association and shall be for the benefit of all other members. The Association, acting on behalf of the members, shall have the power to bid in the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Association Properties and facilities or by abandonment of his Lot.

(c) If an assessment is not paid on or before the date when due, the Association may also suspend the voting rights and right to use any Association recreational facilities of the delinquent member. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on such member's Lot in favor of the Association.

Section 9. Subordination of the Charges and Liens to Mortgages.

(a) The lien of the assessments and charges provided for herein (annual, special or otherwise) is hereby made subordinate to the lien of any first mortgage placed on the Lots subject to assessment if, but only if, all assessments and charges with respect to such Lots authorized herein having a due date on or prior to the date such mortgage is filed for record have been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such mortgage is filed for record and prior to the satisfaction, cancellation or foreclosure of such mortgage or the sale or transfer of the mortgaged Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the mortgaged Lot pursuant to a sale under power contained in such mortgage.

(b) Such subordination is merely a subordination and shall not relieve the owner of the mortgaged Lot of his personal obligation to pay all assessments and charges coming due at a time when he is the owner of such Lot; shall not relieve such Lot from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of subordination as against a mortgagees or such mortgagee's assignee or transferee by foreclosure or by sale or transfer in any proceeding in lieu of foreclosure or by sale under power); and no sale or transfer of such Lot to the mortgagee or to any other person pursuant to a decree of foreclosure, or pursuant to a sale under power, shall relieve any existing or previous owner of such Lot of any personal obligation, or relieve such Lot or the then owner of such Lot from liability for any assessments or charges authorized hereunder coming due after such sale or transfer.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated to and accepted by a local public authority and devoted to public use; and (b) all Association Properties; provided, however, that no land or improvement devoted to dwelling or commercial use shall be exempt from said assessments, charges and liens.

Section 11. Working Capital Fund. A working capital fund shall be established for the initial period of operations equal to two monthly installments of annual assessments for each Lot. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the sale of each Lot and maintained in a segregated account for the use and benefit of the Association. The contribution to the working capital fund for each Lot not theretofore conveyed to a purchaser by the Declarant 60 days after the date on which the first Lot in any particular phase is so conveyed shall be paid to the Association by the Declarant within ten days after said 60th day, in which event the Declarant shall be entitled to reimbursement therefore upon closing of the sale of each such Lot thereafter. The purpose of the working capital fund shall be to insure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Association. Amounts paid into the working capital fund shall not be considered as advance payment of any annual or special assessments.

## ARTICLE VI

### ADMINISTRATION

Section 1. Responsibility for Administration. The administration of the property subject to the jurisdiction of the Association, the maintenance, repair, replacement and' operation of the Association Properties and facilities and those acts required of the Association by this Declaration shall be the responsibility of the Association. In discharging its responsibilities

hereunder, the Association shall have a reasonable right of entry upon each Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance, repair, replacement and operation of the Association Properties and facilities. Such administration shall be governed by this Declaration and the Association's Articles of Incorporation and By-Laws, as amended from time to time. The powers and duties of the Association shall be those set forth in said documents, together with those reasonably implied to effect its purposes, and shall be exercised in the manner provided therein.

Section 2. Management Agreements. The Association may enter into such management agreements as may be necessary or desirable for the administration and operation of the property subject to the jurisdiction of the Association. Such management agreements shall be entered into pursuant to resolution duly adopted by the Association's Board of Directors, each of which shall provide therein: the compensation to be paid; the term thereof which shall not exceed one year, renewable by agreement of the parties for successive one year periods; the termination thereof by either party without cause or payment of a termination fee on 90 days or less written notice; the termination thereof by either party for cause on 30 days written notice; and such other matters as may be agreed upon which are not inconsistent with the terms of this Declaration or the Association's Articles of Incorporation and By-Laws, as amended from time to time. Copies of any management agreement then currently in effect shall be made available for inspection by the members, each of whom shall be bound by the terms and conditions thereof. Should the Association enter into any management agreement as provided for herein and thereafter, upon the termination or expiration of same, assume self management of the property subject to its jurisdiction, such action shall require the prior consent of owners of at least two-thirds (2/3) of the Lots and written approval by the holders of at least a majority of all first mortgages secured by Lots.

Section 3. Other Agreements. Any agreement executed by or on behalf of the Association during the existence of the Class "B" membership shall be subject to cancellation and termination at any time during the 12 months next immediately following termination of the Class "B" membership by the affirmative vote of members entitled to cast at least two-thirds (2/3) of the votes of the Class "A" members, unless the members by a like majority shall have theretofore, following termination of the Class "B" membership, expressly ratified and approved the same.

Section 4. Limitation of Liability; Indemnification.

Notwithstanding the duty of the Association to maintain, repair and replace parts of the Association Properties and facilities, the Association shall not be liable for injury or damage caused by any latent condition of the Association Properties and facilities nor for injury or damage caused by the elements, its members or other persons; nor shall any officer or director of the Association be liable to any member for injury or damage caused by such officer or director in the performance of his duties unless due to the willful misfeasance or malfeasance of such officer or director. Each officer or director of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been such an officer or director, or any settlement thereof, whether or not he is such an officer or director at the time such expenses and liabilities are incurred, except in such cases wherein the officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association.

## ARTICLE VII

### INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. Unless otherwise first approved in writing by the holders of at least two-thirds (2/3) of all first mortgages secured by Lots, the Association's Board of Directors shall obtain insurance for all insurable improvements on the Association Properties, including fixtures and building service equipment, to the extent that they are a part of the Association Properties and facilities, as well as common personal property and supplies, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full, current replacement cost, less ordinary deductible amounts, of any repair or reconstruction in the event of damage or destruction from any such hazard. If reasonably available, such policies shall include an agreed amount and inflation guard endorsement. The Board of Directors shall also obtain a policy of flood insurance on buildings on the Association Properties in an amount deemed appropriate, but not less than the lesser of: (a) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property within any portion of the Association Properties located within a designated flood hazard area, or (b) 100% of current replacement costs of all such buildings and other insurable improvements. The Board of Directors shall also obtain a public liability policy covering all Association Properties and facilities for the hazards of premises operations or actions arising out of bodily injury, property damage, false arrest, invasion of privacy and libel and slander caused by the negligence of the Association or any of its agents, which public liability policy shall be at least \$1,000,000.00 single limit as respects the hazards enumerated herein. All policies must provide that they may not be canceled or substantially modified by any party without at least ten days' prior written notice to the Association. Premiums for all such insurance shall be common expenses paid for by the Association.

Section 2. Damage and Destruction. (a) Immediately after any damage or destruction by fire or other casualty to all or any part of the property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and settlement of all claims arising under such insurance, obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property and, if such damage or destruction is substantial, provide written notice of same to each mortgagee having an interest therein whose name and address have theretofore been furnished to the Association together with a written request for such notice. Repair or reconstruction, as used in this Article, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty, unless otherwise first approved by the owners and approved in writing by the holders of at least a majority of all first mortgages secured by Lots. Subject to subsection (c) hereof, all such damage or destruction shall be repaired or reconstructed as soon as practicable after any such casualty shall occur. The Association's Board of Directors may advertise for sealed bids from and may negotiate with any licensed contractors for such repair or reconstruction and may enter into such contract or contracts for such repair or reconstruction as it may deem necessary or advisable. The contracting party or parties may be required to provide a full performance and payment bond for such repair or reconstruction.

(b) In the event that the insurance proceeds paid to the Association are not sufficient to defray the cost of such repair or reconstruction, the Association's Board of Directors shall have the authority to and shall, subject to subsection (c) hereof, levy a special assessment against all owners in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Assessments for such purpose may be made, without a vote of the members, at any time during or following the completion of any repair or reconstruction.

(c) In the event of damage or destruction by fire or other casualty to all or any part of the Association Properties and facilities, such damage or destruction shall be repaired or reconstructed unless within 60 days after such casualty an instrument requesting that the damage or destruction not be repaired or reconstructed is signed by members of the Association entitled to cast at least eighty percent (80%) of the votes of each class of members and filed with the Association's Board of Directors, in which event the damaged or destroyed area or areas shall be cleaned up and maintained in a neat and attractive condition. If, for any reason, the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction is not made available to the Association within said period of 60 days after the casualty, then such period shall be extended until such information shall be made available to the Association; provided, however, that said period of time shall in no event exceed 120 days after the casualty. No mortgagee shall have any right to participate in the determination as to whether the damage or destruction shall be repaired or reconstructed except that insurance proceeds paid as a result of damage or destruction to all or any part of the Association Properties and facilities shall not be used for other than repair or reconstruction unless otherwise first approved by the owners and approved in writing by the holders of at least two-thirds (2/3) of all first mortgages secured by Lots.

Section 3. Fidelity Bonds. The Association's Board of Directors shall obtain and maintain blanket fidelity bonds for all officers, directors and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds shall be required for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The total amount of fidelity bond coverage shall be determined from time to time by the Board of Directors not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bond be less than a sum equal to three months aggregate assessments on all Lots plus reserve funds. Fidelity bonds required hereby shall name the Association as an obligee and shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions. The premiums on all such bonds (except for premiums on fidelity bonds maintained by a management agent for its officers, employees, and agents) shall be paid by the Association as a common expense. Such bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association.

## ARTICLE VIII

### CONDEMNATION

Section 1. Procedure. Whenever all or any part of the Association Properties shall be taken (or conveyed in lieu of or under threat of condemnation) by any authority having the power of condemnation or eminent domain, the Association shall represent the Lot owners in any condemnation proceedings and in negotiations, settlements and agreements with the condemning authority for acquisition of the Association Properties, or any part or parts thereof. The award made for such taking shall be payable to the Association for the use and benefit of the Lot owners and their mortgagees as their interests may appear. If the taking involves a portion of the Association Properties on which improvements have been constructed, then, unless within 60 days after such taking an instrument signed by owners of at least two-thirds (2/3) of the Lots should provide otherwise, the Association shall replace such improvements so taken on the remaining land included in the Association Properties to the extent that lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be replaced, the provisions of Article VII above regarding the disbursement of funds with respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Association Properties, or if there is a decision made not to replace, or if there are funds remaining after any such replacement is completed, then such award or funds shall be retained by the Association and used for such purposes as the Board of Directors of the Association shall determine.

## ARTICLE IX

### ARCHITECTURAL CONTROL

Section 1. Construction; Review and Approval. No building, fence, wall or other structure, except those provided by the Declarant, shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to, change in or alteration of any of said structures be made until complete final plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location and floor plan thereof, and showing front, side and rear elevations thereof and the names of the builder, general contractor and all subcontractors have been submitted to and approved by the Association's Board of Directors or by an architectural control committee composed of three or more persons appointed by said Board as to harmony of exterior design and general quality with the existing standards of the neighborhood and as to location in relation to surrounding structures and topography. In the event said Board or its designated committee fails to approve or disapprove such design and location within 30 days after said plans and specifications shall have been submitted to it, approval will not be required and this Section will be deemed to have been fully complied with.

## ARTICLE X

### EXTERIOR MAINTENANCE

Section 1. Association Properties. The responsibility for the maintenance, in a neat and attractive condition, of all Association Properties and facilities shall be as prescribed in Article VI of this Declaration.

Section 2. Lots. All Lots subject to this Declaration, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by and at the expense of their respective owners. Such maintenance shall include, but shall not be limited to, painting, staining, repairing, replacing and caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, grass, walks and other exterior improvements; provided, however, that any such painting or staining shall be compatible in appearance and quality with the range of colors and materials then existing on other buildings in the neighborhood.

## ARTICLE XI

### PROTECTIVE COVENANTS

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half stories in height and a private garage or carport for not less than two cars. The owner of each Lot shall be responsible for the installation, in accordance with all governmental regulations applicable thereto, of a culvert on or near the street right-of-way for the purpose of providing vehicular access by means of a driveway to such Lot.

Section 2. Fences and Walls. No fence or wall shall be erected, placed, altered or allowed to remain on any Lot nearer to any street than the minimum building setback line except as may be approved pursuant to Article IX. Rear and side yards may be enclosed with decorative fencing, but chain link or woven wire type fencing will not be permitted. Front yards may not be enclosed in any way.

Section 3. Dwelling Size. No dwelling shall be permitted on any Lot with less than 1,100 square feet of heated/cooled area exclusive of garages, carports and porches. Each dwelling shall have at least a two car garage or carport.

Section 4. Building Location. No building shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback line as shown on any recorded plat of the Lot. In no event shall any building be located on any Lot less than 55 feet from the street right-of-way line. Accessory buildings located in the rear yard shall not be located nearer than three feet to any lot line and, further, no accessory building shall be nearer the front line than 55 feet. Each side of each dwelling shall have a side yard of not less than ten feet. For purposes of this section, eaves, steps and open carports shall not be considered as a part of a dwelling provided, however, that this provision shall not be construed so as to permit any portion of a dwelling or accessory building on a Lot to encroach upon another Lot.

Section 5. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 6. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, except as provided in Section 17 hereof. All construction shall proceed, after begun, without undue delay and no residence shall be occupied until construction is complete.

Section 7. Signs. No sign of any kind shall be displayed to the public view on any Lot except (a) one sign of not more than five square feet advertising the Property for sale or rent, (b) signs used by a builder to advertise the property during the construction and sales period, or (c) one professional sign of not more than one square foot displaying the property owner's name and/or address as may be approved pursuant to Article IX hereof.

Section 8. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 9. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 10. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage or refuse may be burned or incinerated on any Lot.

Section 11. Sewage Disposal. No individual sewage disposal system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Georgia Department of Public Health. Approval of such systems as installed shall be obtained from the Forsyth County Health Department.

Section 12. Water Supply. No individual well or other individual water supply system shall be permitted on any Lot. The water supply system will be owned and operated by the Association and shall at all times comply with all governmental regulations applicable thereto.

Section 13. Sight Distance at Intersections. No fence, wall, hedge or shrub which obstructs sight lines at elevations between two and six feet above the streets shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property line and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitation shall apply on any Lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

Section 14. Recreational Vehicles. Recreational vehicles such as trailers and campers, are permitted, but shall be parked in the rear yard, or in the garage, and out of prominent view and shall not be used for dwelling purposes while on any Lot. Such parking shall be subject to the control of the architectural control committee.

Section 15. Boat Docks. Boat docks are permitted as provided by the rules and regulations of the Corps of Engineers; however, the construction, location, installation and maintenance of said docks shall be subject to the control of the architectural control committee.

Section 16. Exterior of Buildings. No alteration shall be made to or on the exterior surfaces of any building located on any Lot unless (a) consented to in writing in advance by the architectural control committee, or (b) made by or at the instance of the Declarant.

Section 17. Construction. During the construction of dwellings as provided herein, the Declarant may authorize in writing that not more than two trailers or temporary buildings be placed on not more than two Lots, to be used as construction and/or sales trailers but not for residential purposes. Such trailers or buildings shall be maintained in a clean and orderly manner at all times, and shall be subject to the control of the architectural control committee.

Section 18. Governmental Regulations. All governmental building codes, health regulations, zoning restrictions and other requirements applicable to the Properties shall be observed. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

Section 19. Pitt Bull Terrier(s) Ownership. Ownership of any Pit Bull Terrier(s) is prohibited. Note: *Pitt Bull Terrier* shall be defined as any *American Pit Bull Terrier* or *Staffordshire Bull Terrier* or *American Staffordshire Terrier* breed of dog.

## ARTICLE XII

### GENERAL PROVISIONS

Section 1. Duration. The Covenants contained herein shall run with and bind the land, shall be and remain in effect, and shall inure to the benefit of and be enforceable by the Association or the owner of any property subject to this Declaration, their respective legal representative, heirs, successors and assigns, for a term of 20 years from the date on which this Declaration is filed for record in the Office of the Clerk of the Superior Court of Forsyth County, Georgia. Thereafter, said Covenants shall be renewed and extended automatically for successive periods of 10 years each unless, during the last year of any particular term, an instrument in opposition to any such automatic renewal and extension is signed by owners of at least two-thirds (2/3) of the Lots and recorded in the Office of the Clerk of the Superior Court of Forsyth

County, Georgia, in which event the Covenants shall expire at the end of the then current term.

Written notice of any proposal to not renew and extend the Covenants shall be given to each mortgagee of a Lot whose name and address have theretofore been furnished to the Association

together with a written request for such notice. Any proposal in opposition to the automatic renewal and extension of the Covenants contained herein and any other proposal which will have the effect of terminating the legal status of the Properties shall require, in addition to a determination by the owners, the prior written approval of holders of at least a majority of all first mortgages secured by Lots.

Section 2. Amendments. This Declaration may be amended at any time during the initial 20 year term hereof by an instrument signed by owners of at least nine-tenths (9/10) of the Lots, and thereafter by an instrument signed by owners of at least three-fourths (3/4) of the Lots, and recorded in the Office of the Clerk of the Superior Court of Forsyth County, Georgia. During the existence of the Class "B" membership, any amendment to this Declaration shall require, in addition, the prior written approval of the Veterans Administration, provided that approval by the Veterans Administration of the Properties and legal documents relative thereto is then in effect. Any amendment to this Declaration shall require, in addition, the prior written approval of holders of first mortgages on at least a majority of the Lots encumbered by mortgages if such amendment proposes to add or amend any material provisions of this Declaration which establish, provide for, govern or regulate any of the following: (a) voting; (b) assessments, assessments liens or subordination of such liens; (c) reserves for maintenance, repair and replacement of the Association Properties and facilities; (d) insurance or fidelity bonds; (e) rights to use the Association Properties and facilities; (f) responsibility for maintenance and repair of the Properties; (g) expansion or contraction of the Properties or the addition, annexation or withdrawal of property to or from the Properties; (h) boundaries of any Lot; (i) interests in the

Association Properties and facilities; (j) convertibility of Lots into Association Properties or of Association Properties into Lots; (k) leasing of Lots; (l) imposition of any right of first refusal or similar restriction on the right of a Lot owner to sell, transfer or otherwise convey such owner's Lot; and (m) any provisions which are for the express benefit of holders of first mortgages secured by Lots. Any addition or amendment to this Declaration shall not be considered material if it is for the purpose of correcting technical errors or for Clarification only. Nor shall any addition or amendment be considered material if it is for the purpose of complying with the requirements of any governmental or quasi-governmental entity authorized to fund or guarantee mortgages on Lots within a planned unit development, as such requirements may exist from time to time. The holder of a first mortgage secured by a Lot who receives a written request to approve additions or amendments and who does not deliver or post to the requesting party a negative response within 30 days shall be deemed to have approved such request.

Section 3. Notices. Any notice required to be sent to any owner or mortgagee pursuant to any provision of this Declaration or the Association's By-Laws may be served personally or by depositing such notice in the mails, postage prepaid, addressed to the owner or mortgagee to whom it is intended at his last known place of residence or business, or to such other address as may be furnished to the secretary of the Association, and such service shall be deemed sufficient. The date of service by mail shall be the date of mailing. Notice to one of two or more co-owners shall constitute notice to all.

Section 4. Enforcement. Enforcement of the Covenants contained herein and the Association's Articles of Incorporation and By-Laws may be by any appropriate proceeding at law or in equity by the Association or any aggrieved owner against any person or persons violating or attempting to violate same, either to restrain violation, to enforce personal liability, to recover damages or to enforce any lien created by these Covenants. The remedies provided for herein are distinct and cumulative and the exercise of any one or more of them shall not preclude the exercise of any or all other legal remedies now or hereafter provided. Any failure

by the Association or any owner to enforce any of said Covenants, Articles of Incorporation or By-Laws, however long continued, shall in no event be deemed a waiver of the right to do so thereafter. Any person entitled to file a legal action for any violation of these Covenants, the Association's Articles of Incorporation or By-Laws shall be entitled to recover reasonable attorney's fees as a part of such action.

Section 5. Notice of Default to Mortgagees. The first mortgagee of a Lot shall be entitled to written notification from the Association of any default by the owner of such Lot in the performance of his obligations under this Declaration or the Association's Articles of Incorporation, By-Laws or rules and regulations which is not cured within 60 days provided that a request for such notices shall have been made in writing to the Association by such mortgagee.

Section 6. Consent of First Mortgagees Regarding Exterior Appearance. Notwithstanding, and in addition to, any other provision of this Declaration, the Association's Articles of Incorporation, By-Laws and rules and regulations, the Association shall not be entitled, by act or omission, to change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of improvements constructed or to be constructed on the Lots, the exterior maintenance of such improvements, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and planting in the Properties unless first approved in writing by the holders of at least two-thirds (2/3) of all first mortgages secured by Lots.

Section 7. Priority of First Mortgagees. No provision of this Declaration or of the Association's Articles of Incorporation, By-Laws or rules and regulations shall be construed to grant to any owner, or to any other party, any priority over any rights of first mortgagees of the Lots pursuant to their mortgages in the case of a distribution to Lot owners of insurance proceeds or condemnation awards for losses to or a taking of the Association Properties or any portions thereof.

Section 8. Leasing of Lots. Any lease agreement between an owner and his lessee regarding any Lot or portion thereof must be in writing and must provide therein that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Association's Articles of Incorporation and By-Laws, and that any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease. No lot may be leased; or rented for an initial term of less than 30 days.

Section 9. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be several.

Section 10. Authorized Action. Unless otherwise expressly provided herein, all actions which the Association is permitted or required to take pursuant to the provisions of this Declaration shall be authorized actions of the Association if approved by the Board of Directors in the manner provided for in the By-Laws of the Association.

Section 11. Captions. The caption of each section hereof as to the contents of such section is inserted only for convenience and is in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular section to which it refers.

Section 12. Gender. The masculine gender shall be construed to include a female or any legal entity where the context so requires.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officers, and its corporate seal to be hereunto affixed, the day and year first above written.

HAMILTON CORPORATION, a Tennessee  
corporation, d/B/a HAMILTON LAND  
COMPANY

By:

\_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

Signed, sealed and  
delivered in the

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\_\_\_\_\_  
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e  
n

ce of:

Witness

Notary Public

Notary Public, Georgia, State At Large  
My Commission Expires Dec 30, 1984

AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTS FOR

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THE BAY COLONY

WHEREAS, Hamilton Corporation, a Tennessee corporation, d/b/a Hamilton Land Company, ("Hamilton") established the Declaration of Covenants, Conditions and Restrictions for The Bay Colony, (the "Declaration"), being dated March 10, 1982, a tract of land lying and being in the 14th District, 1st Section of Forsyth County, Georgia, and being all of Land Lot 362, and part of Land Lots 287, 361 and 362, the Declaration being dated March 10, 1982, recorded in Deed Book 225, Page 217, Forsyth County, Georgia Records; and

WHEREAS, Hamilton as the present owner of all property subjected to the Declaration, desires to amend the Declaration;

NOW, THEREFORE, for and in consideration of the premises and the benefits to be derived by Hamilton and future owners of The Bay Colony, the Declaration is hereby amended as follows:

- (1) Section 8 of Article XII entitled "Leasing of Lots" is deleted in its entirety and the following paragraph inserted in lieu thereof:  
  
"Section 8. Leasing of Lots. Any lease agreement between an owner and his lessee regarding any Lot or portion thereof must be in writing and must provide therein that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Association's Articles of Incorporation and By-Laws, and that any failure by the lessee to comply with the terms of such documents shall constitute a default under the lease."
- (2) Except as hereinabove amended, all terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Hamilton has caused this Amendment to be executed by its duly authorized officers and its corporate seal affixed, this 1st day of July, 1982.

HAMILTON CORPORATION, a Tennessee  
Corporation, d/B/a HAMILTON LAND  
COMPANY

\_\_\_\_\_  
By :

DOUGLAS B. SPOHN, President

\_\_\_\_\_  
Attest:  
ALICE HOWINGTON, Secretary

Signed, sealed and  
delivered in the

---

---

presence of:

Witness

Notary Public

My commission expires:

Notary Public, Georgia, State At Large  
My Commission Expires Dec 30, 1984

(CORPORATE SEAL)

**STATE OF GEORGIA**

**OFFICE OF SECRETARY OF STATE**  
(STATE OF GEORGIA SEAL)

*I, David B. Poythress, Secretary of State of the  
State of Georgia, do hereby certify that*

"THE BAY COLONY COMMUNITY ASSOCIATION, INC."

has been duly incorporated under the laws of the State of Georgia on the 20th day of January, 1982, by the filing of articles of incorporation in the office of the Secretary of State and the fees therefore paid, as provided by law, and that attached hereto is a true copy of said articles of incorporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 20th day of January in the year of our Lord One Thousand Nine Hundred and Eighty Two and of the Independence of the United States of America the Two Hundred and Six.

SECRETARY OF STATE Ex-OFFICIO CORPORATION  
COMMISSIONER OF THE STATE OF GEORGIA

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ARTICLES OF INCORPORATION  
OF  
THE BAY COLONY COMMUNITY ASSOCIATION, INC.

ARTICLE I.

The name of the corporation shall be:

THE BAY COLONY COMMUNITY ASSOCIATION, INC.

ARTICLE II.

The corporation is organized pursuant to the provisions of the Georgia Nonprofit Corporation Code.

ARTICLE III.

The corporation shall have perpetual duration.

ARTICLE IV.

The corporation shall have no stock or stockholders; it is not organized and shall not operate for profit or pecuniary gain; and no part of the net earnings of the corporation shall inure to the benefit of any member, director, officer or any private individual except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes. No substantial part of the activities of the corporation shall be for carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in or intervene in (including publishing or distributing statements) any political campaign on behalf of any candidate for public office.

ARTICLE V.

The purposes for which the corporation is organized are: to promote the recreation, health, safety, welfare, common benefit and enjoyment of the owners and residents within the real estate in Forsyth County, Georgia, which is the recreation, health, safety, welfare, common benefit or enjoyment of the owners and occupants within the Property; enhance, preserve or maintain property values within the Property; enhance, preserve or maintain the natural beauty of

the Property and its surroundings; or be necessary, proper, useful or incidental to the carrying out of the functions for which the corporation is organized. The corporation shall have the power to dispose of its real properties only as authorized under the recorded covenants and restrictions applicable to the Property.

#### ARTICLE VII.

No member, director or officer of the corporation or other private individual shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the corporation. Upon dissolution of the corporation, the assets of the corporation shall be granted, conveyed and assigned to any one or more nonprofit corporations, association, trusts or other organizations to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. In the event that such grant, conveyance and assignment is refused, such assets shall be dedicated to or distributed among an appropriate public agency or agencies, utility or utilities or any one or more of them, to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. No disposition of the corporation's assets shall be effective to divest or diminish any right or title of any member vested in him under recorded covenants and restrictions applicable to such assets unless made in accordance with the provisions of such covenants and restrictions.

#### ARTICLE VIII.

The address of the initial registered office of the corporation shall be Suite 210, 5801 Peachtree Dunwoody

Road, Atlanta, Georgia, 30342, and the name of its original registered agent at such address is Douglas B. Spohn.

#### ARTICLE IX.

The directors of the corporation shall be elected or appointed at the time and in the manner as provided in the By-Laws of the corporation.

#### ARTICLE X.

The initial Board of Directors of the corporation shall number three (3) and the name and address of each person who is to serve as a member thereof is as follows:

Douglas B. Spohn

Suite 210 5801 Peachtree Dunwoody Road

Atlanta, Georgia 30342

T. Wayne Maffett

Suite 212, 5801 Peachtree Dunwoody Road

Atlanta, Georgia 30342

John L. Lightner

Suite 210, 5801 Peachtree Dunwoody Road

Atlanta, Georgia 30342

#### ARTICLE XI.

The membership of the corporation shall consist of (a) every record owner, whether it be one or more persons, of fee simple title to any lot situated within the Property, excluding, however, the corporation and those persons having such interest merely as security for the performance of an obligation, and (b) Hamilton Corporation, a Tennessee corporation, d/b/a Hamilton Land Company, its successors and assigns, subject, however, to the provisions of Article XII hereof.

#### ARTICLE XII.

The corporation shall have two classes of voting membership: Class "A" and Class "B".

CLASS "A": Class "A" members shall be all owners of lots within the Property with the exception of Hamilton Land Company (except as set forth under Class "B" membership

provisions below). A Class "A" member shall be entitled to one vote for each lot within the Property which he owns.

CLASS "B ": The Class "B" member shall be Hamilton Land Company, its successors and assigns. The Class "B" member shall be entitled to three votes for each lot within the Property which it owns. The Class "B" membership shall cease and be converted to Class "A" membership upon the first of the following events to occur: (a) when the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership unless (i) the Class "B" member at that time has the right to annex additional property pursuant to Article II, Section 2(a), of the Declaration of Covenants, Conditions and Restrictions applicable to the Property sufficient in quantity so that, if annexed, the votes of the Class "B" member would exceed those of the Class "A" members, and (ii) the Class "B" member evidences its intent to exercise such right within a reasonable time thereafter by filing an affidavit to that effect with the Corporation and, provided that approval by the Veterans Administration of the Property and legal documents relative thereto is then in effect, the Veterans Administration, (b) abolishment by the Class "B" member of its Class "B" membership evidenced by written notice thereof delivered to the Corporation, or (c) December 31, 1988.

### ARTICLE XIII.

Until such time as the Class "B" membership shall cease and be converted to Class "A" membership, and, provided that approval by the Veterans Administration of the Property and legal documents relative thereto is then in effect, the following action will require prior approval of the Veterans Administration: annexation of additional property, mortgaging of or dedication of real property owned by the corporation, mergers or consolidations involving the corporation, dissolution of the corporation and amendment of these Articles of Incorporation.

ARTICLE XIV.

The following action will require the assent of members entitled to cast at least two-thirds (2/3) of the votes of each class of members and approval by the Board of Directors of the Corporation: mortgaging, pledging or hypothecating any real or personal property of the corporations the dedication, sale or transfer of any part of the real property of the corporation to any public agency, authority or utility; annexation of additional properties mergers or consolidations involving the corporation; and dissolution of the corporation.

ARTICLE XV.

Subject to the provisions of Article XIII hereof, these Articles of Incorporation may be amended pursuant to resolution duly adopted by the Board of Directors and by members entitled to cast at least three-fourths (3/4) of the votes of each class of members.

ARTICLE XVI

The name of the incorporator is Douglas B. Spohn, and his address is Suite 210, 5801 Peachtree Dunwoody Road, Atlanta, Georgia, 30342.

IN WITNESS WHEREOF, the incorporator has executed these Articles of Incorporation.

\_\_\_\_\_  
Douglas  
B. Spohn

CONSENT TO APPOINTMENT AS REGISTERED AGENT

To: David B. Poythress  
Secretary of State  
Ex-Officio Corporation  
Commissioner  
State of Georgia

Douglas B. Spohn does hereby consent to serve as a registered agent for the corporation  
The Bay Colony Community Association, Inc.

This 17<sup>th</sup> day of December, 1981.

---

Spohn Douglas B.

Address of Registered Agent:  
Suite 210, 5801 Peachtree Dunwoody  
Road Atlanta, Georgia 30342

SUPPLEMENTARY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE BAY COLONY

---

STATE OF GEORGIA  
COUNTY OF FORSYTH

THIS SUPPLEMENTARY DECLARATION, made this \_\_\_\_ day of \_\_\_\_\_ 19\_\_, by HAMILTON CORPORATION, a Tennessee corporation, d/b/a Hamilton Land Company thereafter called the "Declarant");

W I T N E S S E T H:

WHEREAS, the Declarant executed that certain Declaration of Covenants, Conditions and Restrictions for The Bay Colony dated March 10, 1982, recorded in Deed Book 225, Page 217, Forsyth County Records (hereinafter referred to as the "Declaration"); and

WHEREAS, Article II, Section 2(a), of the Declaration provides, in part, that the Declarant shall have the right at any time or times on or before December 31, 1988, to bring within the scheme of the Declaration all or any portion of the property described in Exhibit "C" attached thereto, provided that such annexation shall require the prior written determination of the Veterans Administration as being in accordance with the general plan of development attached to the Declaration as Exhibit "D" or such other general plan of development as may be approved by the Veterans Administration if approval by the Veterans Administration of the Properties and legal documents relative thereto is then in effect, by filing of record one or more supplementary declarations with respect to the additional properties executed by the Declarant; and

WHEREAS, Article II, Section 2(a), of the Declaration further provides, in part, that said supplementary declarations may contain such complementary additions and modifications of the covenants contained in the Declaration as may be necessary to reflect the different character of the additional properties as are not inconsistent with the scheme of the Declaration; and

WHEREAS, the Declarant is the owner of those tracts or parcels of land described in Exhibit "A" attached here to and, by reference, made a part here of, which tracts or parcels of land comprise a portion of the property described in Exhibit "C" attached to the Declaration; and

WHEREAS, approval by the Veterans Administration of the Properties and legal documents relative thereto is not in effect as of the date hereof; and

WHEREAS, the Declarant desires to bring those tracts or parcels of land described in Exhibit "A" attached hereto, and, by reference, made a part hereof within the scheme of the Declaration and subject same to the covenants, conditions and restrictions contained in the Declaration pursuant to and in accordance with the aforesaid provisions thereof;

NOW, THEREFORE, the Declarant thereby declares that those tracts or parcels of land described in Exhibit "A" attached hereto and, by reference, made a part hereof are hereby subjected to the Declaration and to each and every provision of the Declaration. Henceforth, said tracts or parcels of land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration, as amended from time to time, all of which are, by this reference, incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal the day and year first above written.

HAMILTON CORPORATION,  
a Tennessee Corporation,  
d/B/a HAMILTON LAND  
COMPANY

By:

\_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

PARCEL "A"

ALL that tract or parcel of land lying and being in Land Lots 287, 361 and 362 of the 14th District, 1st Section, Forsyth County, Georgia, being the tennis court area shown on "A Final Subdivision Plat of Phase I, The Bay Colony" prepared by Cecil S. Mize, Georgia Registered Land Surveyor No. 1593, dated August 5, 1981, revised November 3, 1981, and recorded in Plat Book 11, page 249, Forsyth County Records, revised April 23, 1982, and recorded in Plat Book 17, page 293, Forsyth County Records, and further revised August 23, 1982, and recorded in Plat Book \_\_\_\_\_, page \_\_\_\_\_, Forsyth County Records, and being more particularly described as follows:

BEGINNING at a point at the intersection of the center line of an unpaved road with the Land Lot Line dividing Land Lots 287 and 288, and at the northeast corner of Lot 33 of The Bay Colony, Phase I, as shown on the above-referenced plat; run thence northeasterly, easterly, southeasterly, easterly and northeasterly along the center line of said unpaved road the following courses and distances: north 29 degrees 42 minutes 41 seconds east thirty-nine and nine tenths (39.90) feet; north 44 degrees 30 minutes 22 seconds east thirty-three and forty-nine hundredths (33.49) feet; north 64 degrees 55 minutes 34 seconds east thirty-eight and twenty-two hundredths (38.22) feet; north 86 degrees 19 minutes 58 seconds east forty-three and fifty-four hundredths (43.54) feet; south 78 degrees 53 minutes 38 seconds east forty-three and sixty-five hundredths (43.65) feet; north 85 degrees 32 minutes 56 seconds east twenty-nine and seventy-one hundredths (29.71) feet; north 34 degrees 44 minutes 28 seconds east thirty and eighty-seven hundredths (30.87) feet; north 14 degrees 22 minutes 23 seconds east thirty-seven and eighty-one hundredths (37.81) feet; north 19 degrees 02 minutes 33 seconds east thirty (30.00) feet to a point; run thence north 89 degrees 12 minutes 50 seconds east two hundred sixty-five (265.00) feet to a point; run thence south 16 degrees 04 minutes 25 seconds east one hundred thirty-two and forty-six hundredths (132.46) feet to a point; run thence south 73 degrees 55 minutes 39 seconds west one hundred twenty-three and seventy-nine hundredths (123.79) feet to a point on the northeasterly right-of-way line of Bay Circle (60-foot right-of-way); run thence north 76 degrees 45 minutes 00 seconds west along the northeasterly right-of-way line of Bay Circle fifty-six and seventy-nine hundredths (56.79) feet to a point; run thence northwesterly, westerly and southwesterly along the northeasterly, northerly and northwesterly arc of Bay Circle, and following the curvature thereof, one hundred twenty-eight and fifty-three hundredths (128.53) feet to a point; run thence south 73 degrees 54 minutes 54 seconds west along the northwesterly right-of-way line of Bay Circle two hundred thirty-nine and nine hundredths (239.09) feet to the southeast corner of said Lot 33 of the Bay Colony, Phase I; run thence north 01 degrees 14 minutes 09 seconds west along; the easterly line of said Lot 33 fifty-two and fifty-three hundredths (52.53) feet to the Land Lot Line dividing Land Lots 287 and 288 and the point of beginning.

EXHIBIT "A"

PARCEL "B"

ALL that tract or parcel of land lying and being in Land Lot 362 of the 14th District, 1st Section, Forsyth County, Georgia, being the median area shown on "A Final Subdivision Plat of Phase I, The Bay Colony" prepared by Cecil S. Mize, Georgia Registered Land Surveyor No. 1593, dated August 5, 1981, revised November 3, 1981, and recorded in Plat Book 17, page 249, Forsyth County Records, revised April 23, 1982, and recorded in Plat Book 17, page 293, Forsyth County Records, and further revised August 23, 1982, and recorded in Plat Book \_\_\_\_, page \_\_\_\_, Forsyth County Records, and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the northwesterly right-of-way line of Williams Shores Road (60-foot right-of-way) with the southwesterly right-of-way line of Bay Circle (60-foot right-of-way); run thence along the easterly side of a median located in the center of Bay Circle the following courses and distances: north 20 degrees 00 minutes 00 seconds west three hundred nineteen and fifty-eight hundredths (319.58) feet to an iron pin set; northerly and northeasterly on an arc to the right one hundred forty-five and sixty-nine hundredths (145.69) feet to an iron pin set; northeasterly thirty-one and ninety-six hundredths (31.96) feet to an iron pin set; northeasterly on an arc to the left one hundred thirty-one and seventy-six hundredths (131.76) feet to an iron pin set; north 04 degrees 30 minutes 00 seconds east one hundred eleven and thirty-one hundredths (111.31) feet to an iron pin set; run thence northwesterly on an arc of 180 degrees a distance of thirty-nine and twenty-seven hundredths (39.27) feet to a point; run thence south 04 degrees 30 minutes 00 seconds west along the westerly side of the aforesaid median one hundred eleven and thirty-one hundredths (111.31) feet to a point; run thence southwesterly along said median on an arc to the right a distance of one hundred fifteen and seventy-two hundredths (115.72) feet to a point; run thence south 41 degrees 15 minutes 00 seconds west along said median one hundred thirty-seven and thirty-two hundredths (137.32) feet to a point; run thence southwesterly, southerly and southeasterly along said median on an arc to the left a distance of fifty-eight and nine tenths (58.90) feet to a point; run thence southeasterly and southerly along said median on an arc to the right a distance of ninety-two and four hundredths (92.04) feet to a point; run thence south 20 degrees 00 minutes 00 seconds east along said median two hundred eighty-two and fifty-one hundredths (282.51) feet to an iron pin set on the northwesterly right-of-way line of Williams Shores Road; run thence north 45 degrees 89 minutes 19 seconds east along said right-of-way twenty-seven and forty-four hundredths (27.44) feet to the southwesterly right-of-way line of Bay Circle and the point of beginning.

EXHIBIT "A"

SUPPLEMENTARY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE BAY COLONY

-----

STATE OF  
GEORGIA COUNTY OF  
FORSYTH

THIS SUPPLEMENTARY DECLARATION, made this 15th day of September, 1983, by HAMILTON CORPORATION, a Tennessee corporation, d/b/a Hamilton Land Company hereinafter called the "Declarant");

W I T N E S S E T H:

WHEREAS, the Declarant executed that certain Declaration of Covenants, Conditions and Restrictions for The Bay Colony dated March 10, 1982, recorded in Deed Book 225, Page 217, Forsyth County Records (hereinafter referred to as the "Declaration"); and

WHEREAS, Article II, Section 2(a), of the Declaration provides, in part, that the Declarant shall have the right at any time or times on or before December 31, 1988, to bring within the scheme of the Declaration all or any portion of the property described in Exhibit "C" attached thereto, provided that such annexation shall require the prior written determination of the Veterans Administration as being in accordance with the general plan of development attached to the Declaration as Exhibit "D" or such other general plan of development as may be approved by the Veterans Administration if approval by the Veterans Administration of the Properties and legal documents relative thereto is then in effect, by filing of record one or more supplementary declarations with respect to the additional properties executed by the Declarant; and

WHEREAS, Article II, Section 2(a), of the Declaration further provides, in part, that said supplementary declarations may contain such complementary additions and modifications of the covenants contained in the Declaration as may be necessary to reflect the different character of the additional properties as are not inconsistent with the scheme of the Declaration; and

WHEREAS, the Declarant is the owner of those tracts or parcels of land described in Exhibit "A" attached here to and, by reference, made a part here of, which tracts or parcels of land comprise a portion of the property described in Exhibit "C" attached to the Declaration; and

WHEREAS, approval by the Veterans Administration of the Properties and legal documents relative thereto is not in effect as of the date hereof; and

WHEREAS, the Declarant desires to bring those tracts or parcels of land described in Exhibit "A" attached hereto, and, by reference, made a part hereof within the scheme of the Declaration and subject same to the covenants, conditions and restrictions contained in the Declaration except as modified in Exhibit "B" attached hereto and, by reference, made a part hereof;

NOW, THEREFORE, the Declarant thereby declares that those tracts or parcels of land described in Exhibit "A" attached hereto and, by reference, made a part hereof are hereby subjected to the Declaration and to each and every provision of the Declaration except as modified in Exhibit "B" attached hereto and, by reference, made a part hereof. Henceforth, said tracts or parcels of land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration, as hereby modified and as the same may be amended from time to time, all of which are, by this reference, incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal the day and year first above written.

HAMILTON CORPORATION,  
a Tennessee Corporation,  
d/B/a HAMILTON LAND  
COMPANY

By:

\_\_\_\_\_

President

Attest:

\_\_\_\_\_

Secretary

ALL those tracts or parcels of land lying and being in Land Lots 361 and 362 of the 14th District, 1st Section of Forsyth County, Georgia, described as "Phase III", The Bay Colony, on a Final Subdivision Plat prepared by Cecil S. Mize, Land Surveyor recorded September 8, 1983, in Plat Book 19, Page 203, Forsyth County, Georgia Records.

EXHIBIT "A"

That certain Declaration of Covenants, Conditions and Restrictions for The Bay Colony dated March 10, 1982, recorded in Deed Book 225, Page 217, Forsyth County Records (the "Declaration") is hereby modified, pursuant to Article II, Section 2, of the Declaration, but only with respect to those tracts or parcels of land described in Exhibit "A" attached to and, by reference, made a part of the Supplementary Declaration to which this Exhibit "B" is also attached, as follows:

1. By deleting the number "1,100" in the first sentence of Section 3 of Article XI of the Declaration and substituting in lieu thereof the number "800" so that, as modified, said sentence will read: "No dwelling shall be permitted on any Lot with less than 800 square feet of heated/cooled area exclusive of garage, carports and porches."

**EXHIBIT "B"**

## EXHIBIT "A"

ALL those tracts or parcels of land lying and being in Land Lots 287, 361 and 362 of the 14th District, 1st Section of Forsyth County, Georgia, described as "Phase I", The Bay Colony, on a Final Subdivision Plat prepared by Cecil S. Mize, Land Surveyor, dated August 5, 1981, revised November 3, 1981, recorded in Plat Book 17 page 249, Forsyth County, Georgia Records.

## EXHIBIT "B"

All those tracts or parcels of land lying and being in Land Lot 362 of the 16th District, 1st Section of Forsyth County, Georgia, and being designated as 20-foot access areas between Lots 2 and 3 and Lots 10 and 11 on Final Subdivision Plat of Phase I, The Bay Colony, prepared by Cecil S. Mize, Land Surveyor, dated August 5, 1981, revised November 3, 1981, recorded In Plat Book 17, page 249, Forsyth County, Georgia Records.

Together with that portion of land located In Land Lot 362 of the 14th District, 1st Section of Forsyth County, Georgia, more particularly described as follows:

BEGINNING at the Intersection of the Southwest corner of Lot 14, Bay Colony, Phase I, and the West line of said Land Lot 362; running thence North  $60^{\circ} 30'$  East along the South lines of Lots 14, 13, 12 and 11, said subdivision, a distance of 364.14 feet to a point; running thence South  $77^{\circ} 30'$  East along the South lines of Lots 11 and 10, said subdivision, a distance of 125 feet to a point; running thence South  $53^{\circ} 45'$  East along the South lines of Lots 10, 9 and 8, said subdivision, a distance of 230 feet to a point; running thence South  $79^{\circ} 00''$ . East along the South line of Lot 8, said subdivision, a distance of 71.55 feet to the West right of way of Bay Drive; running thence South  $04^{\circ} 30' 99''$  West along the West right of way line of way Drive 29.65 feet to the Northeast corner of Lot 7, said subdivision; running thence North  $88^{\circ} 00'$  West along the North line of Lot 7, said subdivision, a distance of 149.55 feet to a point; running thence South  $69^{\circ} 30'$  West along the Northwesterly lines of Lots 7 and 6, said subdivision, a distance of 138.01 feet to a point; running thence North  $78^{\circ} 00'$  West along the, North lines of Lots 5, 4 and 3, said subdivision, a distance of 140 feet to a point; running thence North  $82^{\circ} 30'$  West along the North lines of Lot 3 and an access area, said subdivision, a distance of 92 feet to a point; running thence North  $83^{\circ} 30'$  West along the North line of Lot 2, said subdivision, a distance of 110 feet to a point; running thence North  $82^{\circ} 15'$  West along the North line of Lot 1, said subdivision, a distance of 120.00 feet to a point on the West line of Land Lot 362, said District, Section and County.

## EXHIBIT C

ALL THAT TRACT OR PARCEL OF LAND Lying and being in the 14th District, 1st Section of Forsyth County, Georgia, and being all of Land Lot No. 362, and being part of Land Lots Nos. 287, 361 and 363 and being more fully described as follows:

BEGINNING at a point on the west original line of Land Lot 363 which is a distance of 50 feet northerly (as measured along said west original line) from the southwest corner of Land Lot 363; thence from said beginning point North  $1^{\circ}18'29''$  East along the west original line of Land Lot 363 a distance of 1374.84 feet to the northwest corner of Land Lot 363; thence North  $0^{\circ}59'53''$  East along the west original line of Land Lot 362 a distance of 999.91 feet to the corner of property owned by the United States of America; thence South  $73^{\circ}17'19''$  West along said government line a distance of 1,015 feet to corner at government line; thence South  $16^{\circ}32'41''$  East along government line 56.6 feet to corner at government line; thence South  $70^{\circ}12'11''$  West along government line a distance of 179.67 feet to a point on west original line of Land Lot 287; thence North  $0^{\circ}52'5''$  East along west original line of Land Lot 287 a distance of 470.06 feet to corner of property now or formerly owned by Jack D. M. Morse; thence South  $89^{\circ}1'19''$  East along Morse line 200 feet; thence North  $0^{\circ}52'5''$  East along Morse line 100 feet to the corner of property now or formerly owned by W. A. Parker; thence South  $89^{\circ}1'19''$  East along Parker line 197.57 feet to corner; thence North  $1^{\circ}14'5''$  East along Parker line 198.47 feet to point on north original line of Land Lot 287; thence South  $89^{\circ}4'36''$  East along north original line of Land Lot 287 a distance of 714.4 feet to point in center line of access road; thence in an Easterly direction along and with the meandering course of said access road as follows: North  $36^{\circ}11'25''$  East 64.26 feet, North  $72^{\circ}19'5''$  East 78.67 feet, South  $88^{\circ}14'35''$  East 87.42 feet, North  $21^{\circ}45''$  East 197.13 feet, North  $71^{\circ}9'25''$  East 175.61 feet, North  $66^{\circ}58'25''$  East 112.15 feet, North  $78^{\circ}45'45''$  East 96.63 feet, North  $73^{\circ}32'5''$  East 124.79 feet, South  $85^{\circ}49'35''$  East 145.48 feet, North  $68^{\circ}06'45''$  East 117.24 feet, South  $78^{\circ}2'15''$  East 100.24 feet, South  $72^{\circ}34'55''$  East 166.57 feet, and North  $74^{\circ}57'5''$  East 67.86 feet to point on east original line of Land Lot 361; thence South  $1^{\circ}7'31''$  West along the east original lines of Land Lots 361 and 362, a distance of 1348.85 feet to point on south right of way of a public road (known as Williams Shores Road); thence South  $1^{\circ}13'34''$  West continuing along east original line of Land Lot 362 a distance of 404.32 feet to the southeast corner of Land Lot 362; thence north  $89^{\circ}18'57''$  west along the south original line of Land Lot 362 a distance of 632.14 feet to corner which is on east right of way of Williams Shores public road; thence south  $2^{\circ}38'2''$  west a distance of 1246.98 feet to corner; thence north  $87^{\circ}58'55''$  west a distance of 314.91 feet to point on easterly right of way of Williams Shores public road; thence continuing north  $87^{\circ}58'55''$  west a distance of 50 feet, crossing said Williams Shores Road, to point on the west right of way thereof; thence southerly along the west right of way of Williams Shores Road (said road having a total right of way of 50 feet) a distance of 140 feet more or less to a point on the west right of way of said public road which point is 54.3 feet northerly (as measured along the west right of way of Williams Shores Road) from where the west right of way of Williams Shores Road intersects the south original line of Land Lot 363; thence north  $89^{\circ}42'41''$  west along property line of property now or formerly owned by Frank R. Tiller, Jr., a distance of 310.07 feet to point on west original line of Land Lot 363 which is the POINT OF BEGINNING.

LESS AND EXCEPT ALL those tracts or parcels of land lying and being in Land Lots 287, 361 and 362 of the 14th District, 1st Section of Forsyth County, Georgia, described as "Phase 1", The Bay Colony, on a Final Subdivision Plat prepared by Cecil S. Mize, Land Surveyor, dated August 5, 1981, revised November 3, 1981, recorded in Plat Book 17, page 249, Forsyth County, Georgia Records.

## EXHIBIT "D"

See Plan of Development recorded in Plat Book 17, Page 125, Forsyth County, Georgia Records.