

**THIS DOCUMENT IS NOT A SUBSTITUTE
FOR THE OFFICIAL DECLARATION ON FILE WITH COBB COUNTY.**

STATE OF GEORGIA

COUNTY OF COBB

DECLARATION
Of
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
For
TAMARACK FARMS SUBDIVISION

THIS DECLARATION, made this 17th day of September 1999, by T.H.D., Inc. (hereinafter referred to as "Developer").

WHEREAS, Developer is the owner of certain real property, which real property is more particularly described in exhibit "A" attached hereto and by reference made a part hereof; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values of TAMARACK FARMS SUBDIVISION and for the maintenance of the property and the improvements thereon, and to this end desires to subject the real property described in Exhibit A to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values in TAMARACK FARMS SUBDIVISION, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

NOW, THEREFORE, Developer hereby declares that all of the real property described in Exhibit "A" and any additional property as may be subsequent amendment hereto be added and subjected to this declaration shall be held, transferred, sold, mortgaged, conveyed leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

(Changed by amendment on 8-22-09)

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

ARTICLE 1

DEFINITIONS

Section 1.

Architectural Review Committee

shall mean and refer to T.H.D. Inc., or such other individuals as Developer may appoint, until all lots in TAMARACK FARMS SUBDIVISION shall have been fully developed and permanent improvements constructed thereon and sold to permanent residents, at which time such term shall mean and refer to those persons selected annually by the owners in compliance with the Bylaws of the Association to serve as members of said committee.

Section 2.

Association

shall mean and refer to Tamarack Farms Homeowner's Association, Inc., its successors and assigns.

Section 3.

Board

shall mean and refer to the Board of Directors of the Association.

Section 4.

Common Area

shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 5.

Common Expenses

shall mean and refer to the actual and estimated expenses of operation the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to Declaration and the Bylaws and Articles of incorporation of the Association.

Section 6.

Declaration

shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 7.

Developer

shall mean and refer to T. H. D. Inc., of the State of Georgia or any successor-in-title or any successor-in-interest to T.H.D. Inc., to all or any portion of the property, provided in the instrument of conveyance to any such successor-in-title or interest, such successor-in-title or interest is expressly designated as the "Developer" hereunder by the grantor of such conveyance, which grantor shall be the Developer hereunder at the time of such conveyance.

Section 8.

Lot

shall mean and refer to any parcel of land shown upon any recorded subdivision plat of the property upon which a single-family residence may be constructed.

Section 9.

Owner

shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 10.

Person

shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 11.

Plat

shall mean and refer to that certain Final Subdivision Plat for TAMARACK FARMS SUBDIVISION.

Section 12.

Property

shall mean and refer to that certain real property described in Exhibit A attached hereto and by reference made a part hereof, together with such additional real property as may, by subsequent amendment, be added to and subjected to this Declaration.

Section 13.

Structure

shall mean and refer to: (I) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any dwelling, building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer), or any other temporary or permanent improvement to such Lot; (II) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot; which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (III) any change in grade at any point of a Lot of more than sixty (60) inches, whether or not subsection (II) of this Section 13 applies to such change.

Section 14. (added by amendment 8-22-09)

ACT

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

ARTICLE II

ARCHITECTURAL REVIEW COMMITTEE

Section 1.

Purpose, Powers, and Duties of the ARCHITECTURAL REVIEW COMMITTEE.

The purpose of the ARCHITECTURAL REVIEW COMMITTEE is to assure that the installation, construction or alteration of any Structure on any Lot is submitted to the ARCHITECTURAL REVIEW COMMITTEE for approval (I) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the development of the Property; and (II) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures.

To the extent necessary to carry out such purpose, the ARCHITECTURAL REVIEW COMMITTEE shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

Section 2.

Action of Members of ARCHITECTURAL REVIEW COMMITTEE.

Any member Of the ARCHITECTURAL REVIEW COMMITTEE may be authorized by the ARCHITECTURAL REVIEW COMMITTEE to exercise the full authority of the ARCHITECTURAL REVIEW COMMITTEE with respect to all matters over which the ARCHITECTURAL REVIEW COMMITTEE has authority as may be specified by resolution of the ARCHITECTURAL REVIEW

COMMITTEE. The action of such member with respect to the matters specified shall be final and binding upon the ARCHITECTURAL REVIEW COMMITTEE and upon any applicant for any approval permit or authorization, subject, however, to review any motion or appeal by the applicant to the ARCHITECTURAL REVIEW COMMITTEE as provided herein. Written notice of the decision of such member with respect to the matters specified shall be provided to the ARCHITECTURAL REVIEW COMMITTEE and any applicant for an approval permit or authorization. The applicant may, upon notice of the decision, which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ARCHITECTURAL REVIEW COMMITTEE. Upon the filing of such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ARCHITECTURAL REVIEW COMMITTEE, but in no event later than thirty (30) days after the filing of such request. The decision a majority of the members of the ARCHITECTURAL REVIEW COMMITTEE with respect to such matter shall be final and binding.

Section 3.

Submission of Plans and Specifications.

No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless three copies of the plans and specifications therefore shall have been first submitted to and approved in writing by the ARCHITECTURAL REVIEW COMMITTEE. One copy shall be returned and one retained by the ARCHITECTURAL REVIEW COMMITTEE until such time as such changes or improvements are completed; and one copy along with approved plans and specifications shall be delivered to the marketing agent. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ARCHITECTURAL REVIEW COMMITTEE, including, without being limited to:

- (a) A site plan showing the location of all proposed and existing structures on the Lot, including building setbacks, open space, driveways and parking spaces, including the number thereof;
- (b) Floor plans;
- (c) Exterior elevations of all proposed Structures and alterations to existing structures, as such structures will appear after all back-filling and landscaping are completed;
- (d) Specifications showing the nature, kind, shape, height, materials, basic exterior finished and colors of all proposed Structures and alterations to existing Structures, and also showing front, side, and rear elevations thereof; and
- (e) Plans for landscaping and grading.

Section 4.

Approval of Builders

The ARCHITECTURAL REVIEW COMMITTEE reserves the right to approve any builder or landscaper, prior to performing any work on any Lot in the Property as to financial stability, building or landscaping experience and ability to build or landscape structures or grounds of the class and type of those which are to be built on the Property. Such approval may be - granted or withheld in the sole and uncontrolled discretion of the ARCHITECTURAL REVIEW COMMITTEE. The ARCHITECTURAL REVIEW COMMITTEE reserves the right to withhold approval of any Person as a builder or landscaper unless such Person obtains his income primarily from construction or landscaping of the type which builder or landscaper is to perform upon the Property. The ARCHITECTURAL REVIEW COMMITTEE reserves the right to prohibit any

Owner from acting as his own builder, contractor or landscaper except where such Owner otherwise meets the qualifications for approval by the ARCHITECTURAL REVIEW COMMITTEE as herein above set forth.

Section 5.

Approval and Disapproval of Plans and Specifications

- (a) The ARCHITECTURAL REVIEW COMMITTEE shall have the right to approve or disapprove any plans and specifications submitted to it in its sole and uncontrolled discretion, which approval or disapproval may be based upon any grounds, including purely aesthetic considerations which shall be deemed sufficient.
- (b) Upon approval by the ARCHITECTURAL REVIEW COMMITTEE, any plans and specifications submitted pursuant to this Declaration shall be deposited for permanent record with the ARCHITECTURAL REVIEW COMMITTEE and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval of any plans and specifications for use in connection with any Lot or Structure shall not be deemed a waiver of the ARCHITECTURAL REVIEW COMMITTEE'S right, in its sole discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans and specifications or any of the features or elements included therein are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to and compliance with, such plans and specifications, as approved, and any conditions attached to such approval.
- (c) Neither Developer nor any member of the ARCHITECTURAL REVIEW COMMITTEE shall be responsible or liable in any way for any defects in any plans or specifications approved by the ARCHITECTURAL REVIEW COMMITTEE, nor for any structural defects in any work done according to such plans and specifications approved by the ARCHITECTURAL REVIEW COMMITTEE. Further, approval of plans and specifications by the ARCHITECTURAL REVIEW COMMITTEE shall not be deemed to represent or warranty to any Person the quality, function or operations of the Structure or of any construction, workmanship, engineering, materials or equipment. Neither Developer nor any member of the ARCHITECTURAL REVIEW COMMITTEE shall be liable in damages or in any-other respect to anyone submitting plans or specifications for approval under this Article, or to any Owner, or to any other Person having an interest in any of the Property by reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. By submission of such plans and specifications to the ARCHITECTURAL REVIEW COMMITTEE, every Owner of any Lot releases and agrees to indemnify, hold harmless and defend Developer and any member of the ARCHITECTURAL REVIEW COMMITTEE from any such alleged liability, claim, and/or damage.

Section 6.

Obligation to Act

The ARCHITECTURAL REVIEW COMMITTEE shall take action on any plans and specifications submitted as herein provided within forty-five (45) days after receipt thereof. Approval by the ARCHITECTURAL REVIEW COMMITTEE if granted, together with any conditions imposed by the ARCHITECTURAL REVIEW COMMITTEE, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the ARCHITECTURAL REVIEW COMMITTEE to take action within forty-five (45) days of the receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications provided, however, after the expiration of said forty-five (45) day period, applicant shall first provide a written demand upon the ARCHITECTURAL REVIEW COMMITTEE for action allowing the ARCHITECTURAL REVIEW COMMITTEE not less than twenty (20) days following receipt thereof in order to take such action.

Section 7.

Right of inspection

The ARCHITECTURAL REVIEW COMMITTEE, its agents and representatives, shall have the right during reasonable hours to enter upon and inspect any Lot or Structures thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of the Declaration; and the ARCHITECTURAL REVIEW COMMITTEE shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

Section 8.

Violations.

- (a) If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the laws and specifications approved by the ARCHITECTURAL REVIEW COMMITTEE pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ARCHITECTURAL REVIEW COMMITTEE such violation shall have occurred, the ARCHITECTURAL REVIEW COMMITTEE shall be entitled and empowered to enjoin or remove any such construction. Any costs and expenses incurred by the ARCHITECTURAL REVIEW COMMITTEE in enjoining and/or removing any construction or improvements shall be added to and become a part of the assessment to which the Owner and his Lot are subject, the Owner hereby indemnifies and holds harmless the ARCHITECTURAL REVIEW COMMITTEE for all damage, loss, liability, claim, cause of action, cost or expense including, without limitation, all attorney's fees and court costs arising in any way in connection with the ARCHITECTURAL REVIEW COMMITTEE'S enforcement of this Article.
- (b) The ARCHITECTURAL REVIEW COMMITTEE shall provide written notice to the Owner, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within twenty (20) days after the mailing of the aforesaid notice of violation, then the ARCHITECTURAL REVIEW COMMITTEE shall have the right of abatement as provided in Section 1. (b) Of Article X hereof. In addition to the right of abatement, the Board, upon being informed of such violation by the ARCHITECTURAL REVIEW COMMITTEE, shall be entitled to seek equitable relief to enjoin such construction.

Section 9.

Fees.

The ARCHITECTURAL REVIEW COMMITTEE may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to Section 8 hereof. The fee shall be established from time to time by the ARCHITECTURAL REVIEW COMMITTEE.

ARTICLE III

MEMBERSHIP VOTING RIGHTS

Section 1.

Membership.

Every Owner of a Lot, which is subject to this Declaration, shall be an automatic member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

Section 2.

Voting Rights.

The Association shall have two (2) classes of voting membership:

Class A: Initially, the Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events:

- (a) When the total votes outstanding in the Class A membership exceed the total votes outstanding in the Class B membership; or
- (b) When in its discretion, the Developer so determines.

Section 3.

Developer's Power to Appoint and Remove Board Members and Officers

Notwithstanding the provisions of Section 2 of this Article III, The Developer shall be a member of the Board and be authorized to appoint and remove any member or members of the Board and any Officer of the Association as long as the Developer owns one Lot that is intended for sale. The Developer's authority to appoint and remove members of the Board and Officers of the Association shall in no event extend beyond and shall in all cases expire immediately upon the occurrence of any of the following:

- 1) Five (5) years after the recording of this Declaration;
- 2) The expiration of eight (8) years after the recording of this Declaration in the case of the Developer having an unexpired option to add additional property; or
- 3) The surrender by the Developer of the authority to appoint and remove members of the Board and Officers of the Association by an express amendment to this Declaration.

ARTICLE IV

Property Rights

Section 1.

Member's Easement of Enjoyment

Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area (including, without limitation, the right of pedestrian (but not vehicular) access, ingress and egress to and from his lot over those portions of the Common Area from time to time designated for such purposes and the right of use of such recreational facilities as may be erected and maintained by the Association for such purposes from time to time, which rights and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following;

- (a) The right of the Association to adopt and publish rules and regulations governing the use of the Common Area.
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility now or hereafter located or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use such recreation facilities.
- (c) The right of the Association to suspend any Owner's voting rights and rights to use any recreational facilities within the Common Area for any period during which any assessment of the Association against said Owner's Lot remains unpaid.
- (d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer has been recorded.
- (e) The right of the Association, in the event of dissolution of the Association, to transfer all or any part of the Common Area to a public agency or to a nonprofit organization with similar purposes.

Section 2.

Title to Common Area

Developer may from time to time convey to the Association, at no expense to the Association, real and personal property for the common use and enjoyment of the Owners. The Association hereby covenants and agrees to accept from Developer all such conveyances of real and personal property. Notwithstanding any legal presumption to the contrary, the fee simple title to such real and personal property designated as Common Area or for public use, together with all rights therein, shall be reserved to Developer until such time as the real and/or personal property is conveyed to the Association or to any municipality or other governmental body, agency, or authority.

Section 3.

No Partition.

There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

ARTICLE V

for Maintenance and Capital Improvement Assessments Covenant

Section 1. (All of section 1 of Article V is hereby deleted in its entirety, and the following is substituted in place (8-22-09):

Section 1. Creation of the Lien and personal Obligation of Assessments

Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association for each Lot owned: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration or Bylaws. The Association, in the Board's discretion, may, but shall not be obligated to record a notice of such lien in the county records evidencing the created under the Act and this Declaration. The lien provided for herein shall have priority as provided in the Act.

All such assessments, together with late charges, interest, costs, and reasonable attorney fees actually incurred (including post-judgment attorney fees), and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

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

Any Owner, mortgagee, or a person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee as authorized under the Act as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein, if such statement is reasonably relied upon in connection with the issuance of any mortgage on such Lot.

If the Association does not require payment of the fee as a prerequisite to providing the statement of account, the Association, or its agent, may subsequently charge a reasonable fee in an amount larger than the maximum amount set by the Act. Additionally, at the time of providing said certificate, the Association or its agent may charge a rush fee if said certificate was requested to be provided within seventy-two (72) hours, and any other related costs including but not limited to fax, overnight delivery, research fee, and attorney fees actually incurred.

The Association, or its agent, may also charge for ancillary expenses unrelated to providing the statement of account, including but not limited to: title transfer fees, providing copies of the governing documents, and providing completed lender questionnaires. If any of the above-related fees are not paid in full the Association shall not be obligated to release any liens, and payment of the fees shall be the responsibility of the Seller/Owner and be considered an assessment on the Lot and may be collected as provided in these covenants for other assessments, including the filing of a lien.

Section 2.

Purpose of Assessments

The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the Owners of the Lots and the costs and expenses incident to the operation of the Association, including, without limitation, the maintenance and repair of the Common Area and improvements thereof, if any, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Common Area, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3.

Computation of Annual Assessments

If the Association incurs ongoing Common Expenses, it shall be the duty of the Board at least thirty (30) days prior to the Associations annual meeting to prepare a budget covering the estimated Common Expenses of operating the Association of the coming year, such budget to include the Capital needs of the Association. The budget and the proposed annual assessments to levied against each Lot shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The annual assessments shall be equally divided among the Lots so that the annual assessments shall be the same for each Lot. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either; (1) Developer, so long as Developer owns at least one (1) Lot for sale; or (2) a vote of a majority of the Owners voting in person or by proxy at such meeting. In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget for the then current year shall continue for the succeeding year if any budget at any time proves inadequate for any reason, the Board may call a meeting of the Association for the approval of a special assessment.

Section 4.

Special Assessments.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two-thirds (2/3) of the Class A Members and the Class B Member, if any, voting in person or by proxy at a meeting duly called for such purpose. Special assessments may also be levied by the Association, if, for any reason, the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the members as set forth above.

Section 5.

Notice and Quorum for any action authorized under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking action authorized under Sections 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty

percent (50 %) of all the votes of each class membership shall constitute a quorum.

Section 6.

Rate of Assessment

Annual and Special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7.

Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall be paid in such a manner and on such dates as may be fixed by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance.

(Section 8 of Article V is hereby deleted in its entirety, and the following is substituted in its place:

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association

(a) Late Charges, Interest and Other Collection Fees

Any assessments or installments thereof, which are not paid when due shall be considered delinquent, and shall incur a late charge equal to the greater of ten dollars (\$10.00) or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act. In addition, the delinquent assessments, including late charges, shall incur simple interest at the rate of ten percent (10%) per annum, or such higher amounts as may be authorized by the Act. The Association may also levy other fees provided or permitted by law, including charges for returned check. The Association may also file a Statement of Delinquent Assessments & Notice of Statutory Lien on the county lien records. If the Board permits payment of the annual assessment in installments, and any assessment or other charge is not paid in full within ten (10) days of the due date, then the Board may accelerate and declare immediately due and payable any remaining installments of the annual assessment.

(b) Partial payments

Partial payments shall not constitute payment in full, unless agreed to in writing by the Association. Any partial payments shall be applied in the following order of priority: post-judgment reasonable attorney's fees, costs, and expenses actually incurred, then to reasonable attorney's fees Na costs actually incurred and not reduced to a judgment, then to interest, then to late, charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies which are created by the application of current payments to outstanding delinquent assessments or charges. All of the foregoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment, including an offer of accord and satisfaction in settlement of a bona fide dispute. The Association may, but shall not be obligated to, allow any delinquent assessments, fines, or fees to be paid in installments, and may charge a reasonable service fee thereon.

(c) Suit and Foreclosure of Lien

In the event that the assessment, fine or other charges, or any part thereof, remain unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her,

personally, for the collection of such charges as a debt or the foreclose the aforesaid lien in the same manner as other liens for the improvement of real property, and as provided by the Act. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage, or convey the same.

Section 9.

Exempt Property.

The following property, subject to the Declaration, shall be exempted from the assessments, charges and liens created herein;

- (a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) All common Area; and
- (c) All properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

Section 10.

Effect of Foreclosure by Mortgagee

Notwithstanding any provision herein contained to the contrary, the lien of any assessment provided for in this Declaration shall be and is subordinate to the lien of any first mortgage. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI

Maintenance

Section 1.

Association's Responsibility

Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area and improvements thereon, if any. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of;

- (1) All roads, driveways, walks, parking areas and buildings and other improvements, if any, situated within the Common Area;
- (2) Such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area; and

- (3) All lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area.

Section 2.

Owner's Responsibilities

Each Owner of a Lot, whether vacant or occupied, shall keep and maintain his Lot and the exterior of any and all improvements located thereon in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and care for roofs, gutters, down spouts, building surfaces, trees, shrubs, grass, walks and other exterior improvements. Should any Owner of a Lot fail to maintain his Lot or the improvements thereon as set forth herein above, the ARCHITECTURAL REVIEW COMMITTEE, its agents and representatives, may, after thirty (30) days written notice to the Owner of such Lot, enter upon his Lot for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, for removing garbage or trash, or for performing such exterior maintenance as the ARCHITECTURAL REVIEW COMMITTEE, in the exercise of its sole discretion, deems necessary or advisable. Such Owner shall be personally liable to the ARCHITECTURAL REVIEW COMMITTEE for the direct and indirect cost of such maintenance, which costs shall be added to and become part of the assessment to which such Owner and his Lot are subject. Although notice given as herein provided shall be sufficient to give the ARCHITECTURAL REVIEW COMMITTEE, its agents and representatives, the right to enter upon such Lot and perform such maintenance, entry for such purpose shall be only between the hours of 9:00 A.M. and 5:00 P.M. The provisions hereof shall not be construed, however, as an obligation on the part of the ARCHITECTURAL REVIEW COMMITTEE to mow, clear, cut or prune any Lot, to provide garbage or trash removal service, or to perform such exterior maintenance.

ARTICLE VII

Easements

Section 1.

Utility Easements.

There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided for herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Board, should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Developer or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 2.

Easements for Developer

Developer hereby reserves for itself, its successors and assigns, the following easements and right of ways in, on, over, under and through any part of the Property owned by Developer and the Common Area for so

long as Developer owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction, and maintenance of wires, lines and conduits, and necessary proper attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, television cables, security systems and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers and for any other public or quasi-public utility facility;
- (d) For the use of the Common Area and any sales offices, model units, construction trailers, advertising materials and the like, and parking spaces in connection with its efforts to market Lots;
- (e) For ingress and egress over all roads and walkways including, without limitation, the right to enter the burdened property to tie into existing roadways and walkways;
- (f) To place project signs at the entrance to TAMARACK FARMS SUBDIVISION or, where a different community is being constructed adjacent to TAMARACK FARMS SUBDIVISION, the right to remove a project sign and replace it with a common sign advertising both communities for the benefit of Lot Owners;
- (g) For limited encroachments and overhangs in the construction of a Structure;
- (h) For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvements and sale of Lots.

Section 3.

Easements for Association

There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area and any Lot to perform any maintenance, evaluate architectural changes to the exterior of Structures, or to exercise self-help with respect to covenant violations or dangerous conditions which might increase the possibility of fire, slope erosion or the occurrence of some other hazard and otherwise perform their respective duties.

ARTICLE VIII

General Covenants and Restrictions

The following covenants and restrictions shall apply to all Structures erected or placed thereon.

Section 1.

Residential Use.

All Lots shall be restricted exclusively to single-family residential use. As used herein, the term single family, shall mean one or more persons, provided all persons occupying the Lot are interrelated by blood, adoption, or marriage. If persons occupying a Lot are not all interrelated by blood, adoption, or marriage, then the occupancy of that Lot shall be limited to a maximum number of persons equal to the number of bedrooms in the Structure on that Lot, but not to exceed three (3) persons; provided, however, that persons occupying a Lot who are interrelated by blood, adoption, or marriage may occupy that Lot with one person not related by blood, adoption or marriage. The words; by blood, shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, parents, aunts, uncles, and first cousins, and no other degree of kinship. Occupancy, for purposes of this Declaration, shall be denned as staying overnight in a Structure for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any year. Marriage shall include common law marriage as provided for under Georgia law. This single-family occupancy restriction shall not apply to require the removal of any person occupying a Lot on the date on which this Declaration is recorded in the Cobb County, Georgia land records. However, no person not an occupant of a Lot on the date on which this Declaration is recorded in the Cobb county, Georgia land records, shall be permitted to occupy a Lot if either before or after the occupancy by such person that Lot does not or would not comply with the single family occupancy restriction set forth in this paragraph. Not trade or business of any kind may be conducted in or from a Lot, Structure, the Common Area or any part of the Property including business uses ancillary to a primary residential use, except that the Owner or occupant residing in Structure may conduct such business activities within the unit so long as

- (1) The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the unit;
- (2) The business activity does not involve persons coming onto the Property who do not reside on the Property;
- (3) The business activity conforms to all zoning requirements for the Property; and
- (4) The business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, as may be determined in the sole discretion of the Board. The terms " business " and " trade " as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether,
 - (1) Such activity is engaged in full or part time;
 - (2) Such activity is intended to or does generate a profit; or
 - (3) A license is required therefore.

Notwithstanding the foregoing, nothing herein shall be construed to prohibit or prevent Developer or any

builder of residences in TAMARACK FARMS SUBDIVISION from using any Lot owned by Developer or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots in TAMARACK FARMS SUBDIVISION.

Section 2.

Common Area.

The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from their respective Lots and for such other purposes as may be authorized by the Association.

Section 3.

Nuisances.

(a) No unlawful, noxious or offensive activities shall be carried on in any Lot, Structure or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance of others or unreasonably interferes with other Owners' use of their Lots, Structures and/or the Common Area.

(b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of any Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property or any portion thereof.

(c) (Changed by Amendment) Paved driveways shall serve as adequate off street parking for each lot to accommodate personal autos and trucks 1 ton classification and under used for daily transportation. Visitors shall park on paved driveway when space is available. Over night parking on the street, in excess of three (3) consecutive days, will be permitted with Board approval only. No illegal or unsafe parking, such as blocking driveways, fire hydrants or mailboxes.

Section 4.

Re-subdivision of Property

No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE of plans and specifications for such split, division or subdivision.

Section 5.

Erosion Control

No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE of plans and specifications for the prevention and control of such erosion or siltation. The ARCHITECTURAL REVIEW COMMITTEE may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 6.

Section 6.

Landscaping

No construction or alteration of any Structure shall take place without the prior written approval by the ARCHITECTURAL REVIEW COMMITTEE of plans and specifications for the landscaping to accompany such construction or alteration.

Section 7.

Temporary Buildings.

No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desired for security purposes in accordance with plans and specifications therefore approved by, the ARCHITECTURAL REVIEW COMMITTEE. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with the construction on such Lot without the prior written consent of the ARCHITECTURAL REVIEW COMMITTEE.

- (a) No. Signs whatsoever (including, but not limited to, commercial and similar signs) shall, without the ARCHITECTURAL REVIEW COMMITTEE'S prior written approval of plans and specifications therefore, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:
 - (1) Such signs as may be required by legal proceedings;
 - (2) Not more than one "For Sale" or "For Rent" sign; provided, however, that in no event shall any such sign be larger than four (4) square feet in area; and
 - (3) Directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ARCHITECTURAL REVIEW COMMITTEE.
- (b) Following the consummation of the sale of any Lot, the "For Sale" signs and the builder's sign located thereon, if any, shall be removed immediately.

Section 8.

Signs.

- (a) No. Signs whatsoever (including, but not limited to, commercial and similar signs) shall, without the ARCHITECTURAL REVIEW COMMITTEE'S prior written approval of plans and specifications therefore, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:
 - (1) Such signs as may be required by legal proceedings;
 - (2) Not more than one "For Sale" or "For Rent" sign; provided, however, that in no event shall any such sign be larger than four (4) square feet in area; and
 - (3) Directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ARCHITECTURAL REVIEW COMMITTEE.
- (b) Following the consummation of the sale of any Lot, the "For Sale" signs and the builder's sign located thereon, if any, shall be removed immediately.

Section 9.

Setbacks.

In approving plans and specifications for any proposed Structure, the ARCHITECTURAL REVIEW COMMITTEE may establish requirements for the location of such Structures, which are more restrictive than those, established by the Plat. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

Section 10.

Fences.

No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE of plans and specifications for such fences and walls. In no event shall any fence be constructed, placed or maintained in the front yard of any Lot.

Section 11.

Roads and Driveways

No road or driveway shall be constructed or altered on any Lot without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE of plans and specifications for such roads and driveways. Such specifications shall include the proposed substance to be used in constructing such roads and driveways, which substance shall be satisfactory to the ARCHITECTURAL REVIEW COMMITTEE.

Section 12.

Antennae.

(NOTE: FCC rules currently allow VSSB dishes anywhere on property if necessary for good signal)

No antenna, satellite dish or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, attached, used, or maintained on the exterior of any Structure or upon any Lot without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE. In no event shall freestanding transmission or receiving towers or satellite dishes be permitted. The only exception being, the small VSSB dishes will be permitted in rear of house only.

(NOTE: FCC rules currently allow VSSB dishes anywhere on property if necessary for good signal.)

Section 13.

Clothesline.

No outside clotheslines shall be constructed, placed, maintained, or used on any Lot.

Section 14. (Changed by Amendment)

Recreational Vehicles and Trailers.

No trailer, RV, boat or utility equipment may be parked any where other than garage serving Lot Structures.

Section 15.

Recreation Equipment.

No recreation and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE.

Section 16.

Accessory Structures.

A detached accessory structure may be placed on a Lot to be used for a playhouse, a swimming pool, tennis court, a mailbox or a doghouse. Such accessory structures shall conform in exterior design and quality to the dwelling on the same Lot. With the exception of a garage that is attached to a Structure and a mailbox, an accessory Structure placed on a Lot shall be located only behind the Structure as such Structure fronts on the street abutting such Lot. Such accessory Structures shall also be located within such side and rear setback lines as may be required hereby or by applicable zoning law. The ARCHITECTURAL REVIEW COMMITTEE shall have the right to approve or disapprove the plans and specifications for any accessory Structure to be erected on any Lot, and construction of any accessory Structure may not be commenced until complete final plans and specifications shall have been submitted and approved by the ARCHITECTURAL REVIEW COMMITTEE in accordance with the provisions of these covenants. Any accessory Structure shall be constructed concurrently with or subsequent to the construction of the Structure on the Lot on which such accessory Structure is located.

Section 17.

Improvement of Lots

All construction of Structures, accessory Structures and all other improvements in TAMARACK FARMS SUBDIVISION shall be undertaken and completed in accordance with the following conditions:

- (a) All construction shall be carried out in compliance with the laws, code rules, regulations and orders of all applicable governmental agencies and authorities.
- (b) All single-family residences constructed on the Lots shall be European or Traditional, in style. The determination of whether or not a residence is European or Traditional shall be decided by the ARCHITECTURAL REVIEW COMMITTEE in its sole and uncontrolled discretion.
- (c) All foundations when exposed must either be concrete or brick, and there shall be no fences or walls of any other material, which the ARCHITECTURAL REVIEW COMMITTEE determines to be incompatible with dwellings or other Structures in TAMARACK FARMS SUBDIVISION.
- (d) Only one mailbox shall be located on any Lot, which mailbox will be consistent with the quality and design of surrounding dwellings and mailboxes. Said mailbox shall be placed and maintained

to complement the dwelling to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States Postal Service, its successors and assigns and acceptable to all. Each mailbox must be of approved ARCHITECTURAL REVIEW COMMITTEE design and construction.

- (e) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory Structure on such Lot, nor shall any such building materials or devices be stored on Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.
- (f) No exposed, aboveground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the ARCHITECTURAL REVIEW COMMITTEE.
- (g) Adequate off-street parking shall be provided for each Lot.
- (h) Containers for garbage and other refuse shall be underground or in screened sanitary enclosures; no incinerators for garbage, trash or other refuse shall be used, and a garbage disposal is required for each dwelling.
- (i) All garages must have doors, and each garage door must be coordinated with the dwelling to which it is appurtenant.
- (j) No window air conditioning unit may be located in any part of any Structure or accessory Structure which is visible from any street, and all exterior compressor units shall be ground mounted and screened by fencing or planting of a density and height to hide the unit effectively, which fencing or planting shall first be approved by the ARCHITECTURAL REVIEW COMMITTEE.
- (k) Any screen porch, which is a part of any Structure or accessory, Structure must have a dark color screen and no bright color silver finish screens may be used.
- (l) No plumbing vent or heating vent shall be placed on the front side of any roof or any Structure or accessory Structure if possible.
- (m) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.
- (n) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of one-story dwellings shall contain not less than 2000 square feet. The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of all two story and two and one-half story dwellings shall contain not less than 2000 square feet. No dwellings shall be constructed exceeding two and one-half stories in height on any Lot.

Section 18.

Animals.

No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animals shall be allowed to become a nuisance. No Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have first been approved by the ARCHITECTURAL REVIEW COMMITTEE.

Section 19.

Water Supply.

No individual water supply system shall be permitted on any Lot without the prior written approval of the ARCHITECTURAL REVIEW COMMITTEE. If such approval is given, such system must be located, constructed and equipped in accordance with requirements, standards and recommendations of federal, state and local public health authorities, and all necessary approvals of such system as installed shall be obtained from such authorities at the sole cost and expense of the Owner of the Lot to be served by such system.

Section 20.

Trees and shrubs

No trees measuring 18 inches or more in diameter at a point 2 feet above ground level, no flowering trees or shrubs, nor any evergreens on any lot may be removed without the prior approval of the ARCHITECTURAL REVIEW COMMITTEE unless located within 10 feet of the approved site for a Structure or within the right of way of driveways or walkways; Excepted here from shall be damaged or dead trees and trees which must be removed due to an emergency.

Section 21. (Addition by Amendment)

Leasing Restrictions

In order to protect the equity of the individual owners, and to carry out the purpose for which the Tamarack Farms Homeowner's Association, Inc. (hereinafter referred to as "Association") was formed by preserving the character of the Tamarack Farms Subdivision (hereinafter referred to as the "Subdivision") as a homogeneous residential community of predominantly owner-occupied homes and by preventing the community from assuming the character of a renter-occupied complex, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of a Lot (or dwelling thereon) shall be governed by the restrictions imposed by this Section (other than as provided herein for certain Mortgagees) as follows:

A. NOTICE AND REGULATIONS.

Any Owner intending to lease his Lot, or any Portion thereof, shall give written notice of such intention to the Association's Board of Directors (hereinafter referred to as "Board"), stating the name and address of the intended lessee, the terms of the proposed lease and such other information as the Board may reasonably require. The Board shall have the authority to make and enforce reasonable Rules and Regulations regarding the restrictions for leasing, sub-leasing, and renting, including definitions, and the grounds for temporary exceptions to said restrictions, along with the right to impose fines constituting a lien upon the Lot being leased.

B. LIMITATION ON TOTAL LEASES.

No more than five percent (5%) of the total number of Lots may be leased at any one time. The Board may allow temporary exceptions on the basis of hardship.

C. REQUIRED LEASE PROVISIONS.

The Board of Directors may set the minimum lease term; however, said minimum term shall not be set for greater than one (1) year. All leases and lessees are subject to the provisions of the Declaration, Bylaws, Architectural Guidelines, and Rules. The Owner must make available to the tenant a copy of this Declaration and By-laws. Any leases of a Lot, or a portion thereof, shall be deemed to contain the provisions of the below paragraphs lettered; (a) through (d), whether or not said provisions are expressly

stated therein, and each Owner covenants and agrees that any lease of his Lot shall contain the language of said provisions, and further, that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Lot. Any lessee, by occupancy of a Lot, agrees to the applicability of this covenant and its incorporation as part of the lease along with the following provisions:

(a) Lessee acknowledges that promises made to Lessor, as contained in **Article VI, Section 6, Paragraph C., Subparagraphs (a), (b), (c) and (d)** of the Declaration of Covenants, Conditions and Restrictions for Tamarack Farms Homeowner's Association, Inc. which govern the leased premises, and which provisions are incorporated within this lease agreement, are made for the benefit of the Association for the purpose of discharging Lessor's duties to the Association through Lessee's performance. In order to enforce those provisions made for the benefit of the Association, the Association may bring an action against Lessee for recovery of damages or for injunctive relief, or may impose any other sanctions authorized by the Declaration and Bylaws, as they may be amended from time to time, or which may be available at law or equity, including but not limited to, all remedies available to a landlord upon breach or default of a lease agreement by a lessee. Failure by the Association to enforce any of its rights shall in no event be deemed a waiver of the right to do so thereafter.

(b) Lessee shall comply strictly with all provisions of the Declaration, Bylaws, and with the administrative rules and regulations adopted by the Association pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges the violation by Lessee or any occupant or person living with Lessee of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under this lease. Lessee further acknowledges that the Association has the right to act on its own behalf, or where necessary on behalf of Lessor, as Lessor's attorney-in-fact, to seek any remedies which are available to a landlord upon breach or default of a lease agreement by Lessee.

(c) Upon request by the Association, Lessee shall pay to the Association all unpaid annual assessments, special assessments, or fines, as lawfully determined and made payable during and prior to the terms of this lease agreement and any other period of occupancy by Lessee; provided, however, that Lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Association's request. All payments made to the Association shall reduce by the same amount Lessee's obligation to make monthly rental payments to Lessor under the Lease. If Lessee fails to comply with the Association's request to pay assessments, Lessee shall pay to the Association all late or delinquent charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent Lessee would be required to make such payments to the Association if Lessee were the Owner of the Premises during the term of this lease agreement and any other period of occupancy by Lessee.

(d) Lessee's right shall be subject to all rights of the Association and any bona fide Mortgage or deed to secure debt which is now or may hereinafter be placed upon the Premises by Lessor.

D. ENFORCEMENT.

For the purpose of enforcing the provisions of this Section, which shall be incorporated in the provisions of any leases of a Lot, each Owner, by acceptance of a deed or other conveyance of a Lot, hereby irrevocably appoints the Association, which may act by any one of its authorized officers, as his attorney-in-fact, to enforce said provisions and to take action, at law or equity, which could be taken by said Owner against the Lessee should Lessee default in performance under the lease agreement. Each Owner hereby further acknowledges that this power of attorney shall only apply in the event of noncompliance by a Lessee with the provisions of Article VI, Section 6, of this Declaration, and that the Association, its Board of Directors, employees and agents shall be held harmless by each Owner in exercising the power of attorney herein granted to the Association.

E. EXPENSES OF EVICTION.

In the event the Association proceeds to evict the Lessee, any costs, including attorney's fees actually incurred, and court costs, associated with the eviction shall be specifically assessed against the Lot, becoming a lien thereon subject to enforcement in accordance with Article IV of this Declaration, and shall become the personal obligation of the Owner thereof, such being deemed hereby as an expense which benefits the Lot and the Owner thereof.

F. RIGHTS OF LESSEE.

Any Lessee charged with a violation of the Declaration, Bylaws, Policies, and/or Rules and Regulations is entitled to the same rights to which the Owner is entitled as provided in the Association's Bylaws.

G. RIGHTS OF FIRST MORTGAGEES.

Notwithstanding anything to the contrary herein contained, the provisions of this Article shall not impair the right of any first Mortgagee to:

- (a) foreclose or take title to the Lot pursuant to remedies contained in any Mortgage;
- (b) take a deed or assignment in lieu of foreclosure; or
- (c) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

ARTICLE IX

Insurance

The Board, or its duly authorized agent, shall obtain such insurance's policies upon the Common Area, as the Board deems necessary or desirable in its sole discretion. The named insured on all policies of insurance shall be the Association.

ARTICLE X

General Provisions

Section 1.

Enforcement.

- (a) The Association, the ARCHITECTURAL REVIEW COMMITTEE, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the ARCHITECTURAL REVIEW COMMITTEE or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- (b) The ARCHITECTURAL REVIEW COMMITTEE shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within 20 days after the mailing of written notice of such violation or breach. The right of abatement means the right of the ARCHITECTURAL REVIEW COMMITTEE, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to

- have committed a trespass or wrongful act by reason of such entry and such actions.
- (c) Any grievance, claim or controversy by an Owner against the Developer or Association or its directors, officers, or manager shall be settled by arbitration administered by the American Arbitration Association and judgment and award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof; provided, however, prior to filing a demand for arbitration lawsuit Owner shall first meet with the Developer or Association, state his or her grievance, claim or controversy and in good faith give the Association an opportunity to respond.

Section 2.

Sever ability.

If any provision of this Declaration, or any paragraph, subparagraph, article, section, clause, phrase, word or the application thereof in circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3.

Headings

The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. (Changed by amendment on 8-22-09)

Duration

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

Section 5.

Amendment to Evidence Election to be governed under Georgia Property Owners' Association Act

This Declaration is not currently submitted or governed under Georgia Property Owners Association Act. However, at any time after the Developer or any successor-in-interest to Developer is no longer a record title Owner of at least one (1) Lot for sale, the Association, through its Board, may, without any other action being necessary, unilaterally elect to be so governed. In such event, the only requirement shall be to file an amendment to this Declaration evidencing such election that is signed by the chairman of the Board and attested by any other Board member.

Section 6.

Withdrawal of Property

Developer reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand TAMARACK FARMS SUBDIVISION, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Property then owned by the Developer or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Property desired to be effected by the Developer, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Property.

Section 7.

Rights and Obligations

Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in the Property or any portion thereon and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 8.

Notices.

Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Developer shall be in writing and shall be addressed to T.H.D., INC., c/o Randy Chambers, 4014 Tamarack Dr., Kennesaw, Ga. 30152. such different address as disclosed in a written notice of change of address furnished to all Owners. Any Owner may designate a different address for notices to him by giving written notice to the Developer. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail, return receipt requested, or when delivered in person.

Section 9 Amendments (Changed by amendment on 8-22-09)

The covenants and restrictions of this Declaration shall run with and bind the Properties perpetually to the extent provided for in the Act. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3rds) of the Total Association Vote. "Total Association Vote" means all of the votes attributable to members of the Association, but does not include those Lot Owners who have had their right to vote suspended pursuant to the Declaration.

If legal action is not instituted to challenge the validity of any amendment of the Declaration within one (1) year of the recording thereof in the Cobb County, Georgia land records, then any such amendment shall be presumed to be validly approved and adopted. Every purchaser or grantee of any interest in any real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance, hereby agrees that the Declaration may be amended as provided for in this Section

Section 10.

No Liability.

Developer has used its best efforts and acted with due diligence in connection with drafting these covenants.