

STATE OF GEORGIA
COUNTY OF COBB

FILED & RECORDED
98 OCT 13 PM 5:04:00
Jay C. Stephenson
COURT CLERK

ROBERT E. GARRISON
ATTORNEY AT LAW
BUILDING 600, SUITES 130-140
2230 TOWNE LAKE PARKWAY
WOODSTOCK, GEORGIA 30189

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR ESSEX PARK SUBDIVISION**

THIS DECLARATION, made on the date hereinafter set forth by LAND SALES, INC., (hereinafter referred to as "Declarant" and "Owner").

WITNESSETH:

WHEREAS, Owner is the owner of certain property in the County of Cobb, State of Georgia, which is more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference;

WHEREAS, Declarant and Owner desire to provide for the preservation and enhancement of the property values in Essex Park Subdivision, and for the maintenance of property and improvements thereon, and to this end desires to subject the property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property; and

WHEREAS, Declarant and Owner have deemed it desirable, for the efficient preservation of the values in Essex Park Subdivision, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant acknowledges the existence of Essex Park Property Owners Association, Inc. ("Association"), which has been duly incorporated under the laws of the State of Georgia as a non-profit corporation, for the purpose of exercising the aforesaid functions; and

WHEREAS, Association is joining in the execution of this Declaration to acknowledge acceptance of the purchasers of lots on the Property for membership in the Association, which shall be automatic and shall run with title to such lots, and to grant such easements as are created hereunder by the Association.

NOW, THEREFORE, Declarant and Owners hereby declare that all of the properties described above shall be held, sold, and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Architectural Standards Committee" shall mean and refer to Land Sales, Inc., Declarant, or such other persons as Declarant may appoint, as to each Lot in the Phase II Property, until each such lot in Essex Park Subdivision Phase Two has been fully developed and a permanent dwelling is constructed thereon and sold to permanent residents or owners, or at such earlier time as the Declarant in its sole discretion shall turn the same over to the Association.

Section 2. "Association" shall mean and refer to Essex Park Property Owners Association, Inc., its successors and assigns.

Section 3. "Land Sales" shall mean Land Sales, Inc., a Georgia corporation, its successors and assigns.

Section 4. "Board" shall mean and refer to the Board of Directors of the Association.

Section 5. "Common Area" shall mean all real and personal property now or hereafter owned or leased by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association at the time of this declaration is as shown upon the plat of subdivision of Essex Park Phase One which is recorded in the real property records of Cobb County, Georgia in Plat Book 156, Page 38, and is designated thereon as "Amenities Area."

Section 6. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Declaration for Phase I, and the By-Laws and Articles of Incorporation of the Association.

Section 7. "Declarant" under this Declaration shall mean and refer to Land Sales, Inc., its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, and if said successors or assigns are named as Declarant by Land Sales, Inc. in any instrument of conveyance of said Lots.

Section 8. "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 9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat made of the Essex Park Phase II Property with the exception of the Common Area.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot which is part of the Property, but excluding those having such interest in merely as security for the performance of any obligation.

Section 11. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 12. "Property" or "Phase II Property" shall mean and refer to that certain real property described on "Exhibit A" hereto and the plat hereinabove referenced, which is hereby 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 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, tree, shrub, 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, or 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 on a Lot of more than six (6) inches, whether or not subsection (ii) of this Section applies to such change.

ARTICLE II **ARCHITECTURAL STANDARDS COMMITTEE**

Section 1. Purpose, Powers and Duties of the Architectural Standards Committee

(a) The purpose of the Architectural Standards Committee is to assure that the installation, construction, or alteration of any improvement or Structure on any Lot is in accordance with the standards determined by the Architectural Standards Committee. To the extent necessary to carry out such purpose, the Architectural Standards 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.

(b) To preserve the architectural appearance of the neighborhood, no construction or placement of improvements of any nature whatsoever shall be commenced or maintained by any owner, his family, tenants, visitors, guests, servants, and agents with respect to the exterior of

any house or with respect to any other portion of any Lot or other parcel of land, including without limitation, the construction or installation of sidewalks, driveways, decks, patios, swimming pools, tennis courts, greenhouses, playhouses, garages, guests or servants quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Standards Committee. The Architectural Standards Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the neighborhood. If same are not approved or disapproved within thirty (30) days from date submitted, then same shall be approved by default.

(c) There shall be two Architectural Standards Committee hereunder, one appointed by Declarant and one appointed by the Association. All Lots in the Phase II Property shall be regulated by the Declarant's Architectural Standards Committee until such time as the Lot is purchased and occupied for use as a residence, at which time the Lot thereafter shall be subject to the exclusive regulation of the Association's Architectural Standards Committee.

ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(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 situated upon the Common Area;

(c) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for a period during which an assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(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 purposes and subject to such conditions as may be agreed to by the members;

(e) no such decision or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded;

(f) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of two-thirds (2/3) of the Class A and B members to give as security a mortgage conveying all or any portion of the Common Area.

(g) the easements reserved in Article VI of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right or use and enjoyment in and to the Common Area and the improvements thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration and on which a dwelling has been constructed with a certificate of occupancy issued and has been purchased and occupied for residential purposes, shall be a mandatory member of the Association. The foregoing is not intended to include either: (1) Declarant, (2) builders who purchase Lots for construction of a dwelling thereon and resale thereof without occupancy (hereinafter "Builders"), or (3) persons or entities who 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 one class of voting membership identified in the Articles and Bylaws. Each Class A members shall be entitled to one (1) 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 (1) vote be cast with respect to any Lot.

ARTICLE V MAINTENANCE AND ASSESSMENTS

Section 1. Annual Maintenance Assessments.

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

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

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

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

(iv) The amounts payable for principal and interest for any encumbrances upon any portion of the Common Areas and Community Facilities, if any; and

(v) The cost of hazard, flood hazard and liability insurance on the Common Areas and Community Facilities and the cost of such other insurance as the Association may purchase with respect to the Common Areas or the Property, or with respect to the liability of officers or directors of the Association acting in their capacities as such; and

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

(vii) The cost of maintaining, replacing, repairing and landscaping any and all of the Common Areas and Community Facilities, if any, including, without limitation, entry areas, signage, and storm water detention basins or the like located upon the Common Areas, the cost of maintaining, repairing, and landscaping any portion of the Lots as required by this Declaration, and the cost of maintenance of all roads, easements or pathways upon the Property and providing access to the Property to the extent required by any easements, restrictions or agreements of record which requires such contribution by the Declarant, its predecessors in title or its successors in title, together with such equipment as the Board shall determine to be necessary and proper in connection therewith;

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

(ix) All common expenses authorized under the Phase I Declaration.

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

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

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

(e) If the Board of Directors determines that:

(i) that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair or replacement of items for which he is responsible hereunder, or

(ii) that the need for maintenance, repair or replacement in the Common Areas and Community Facilities was caused through the willful or negligent act of any Owner, his or her family, guests, lessees or invitees, and it not covered and paid for by insurance,

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

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

Section 3. Reserves for Replacements. The Association shall establish and maintain a reserve fund for replacements by allocation and payment to this reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the acceptance of which are insured by an agency of the United States of America, or may, in its discretion by the Board of Directors, be invested in obligations of, or guaranteed as to principal by, the United States of America. The reserve for replacements may be expended only for the purpose of effecting the replacement of Community Facilities, if any, or major repairs to any

sidewalks, parking asphalt, streets, or roadways developed as part of the Property or providing access to the Property, equipment replacement, insurance deductibles, and for start-up expenses and operating contingencies of a non-recurring nature relating to the Common Areas and Community Facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any Owner in any such reserves shall be considered an appurtenance of his Lot and shall be separately withdrawn, assigned or transferred or otherwise separated from a Lot to which is appertains and shall be deemed to be transferred with such Lot. The calculation and assessment of the reserves for replacement shall not commence with regard to any improvement until the improvement has been completed as evidenced by any authority required such escrow funds.

Section 4. Maximum Annual Assessment. Until January 1 of the year immediately following conveyance of the first Lot, the maximum annual maintenance assessment for each Lot to which Class A membership is appurtenant shall be four hundred dollars. Payment of the assessment with respect to any Lot shall commence as of the date of conveyance of the Lot to a Lot Owner other than the Declarant or a Builder. The annual maintenance assessment shall be levied at a uniform rate for each Lot to which Class A membership is appurtenant. The actual sums assessed annually by the Association may be at any lower amount than the maximum stated herein. There shall be proration for such annual maintenance assessment if an Owner owns a Lot for less than a full calendar year. Class A membership is appurtenant such annual maintenance assessment for the balance of the year in which the closing occurs and, if such closing occurs as of November 1 of any year, for the next succeeding calendar year.

Section 5. Increase in Maximum Annual Maintenance Assessment.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot with a permanent dwelling erected thereon, the annual assessment may be not increased in any year by more than ten percent (10%) over the preceding year's annual assessment without a vote of the Members; the maximum assessment may be increased above the limits hereinabove set out upon assent of at least two-thirds (2/3) of each class of the Members at a meeting called for that purpose. Any notice for such meeting shall comply with the requirements of the By-Laws of the Association.

(b) Written notice of any meeting called for the purpose of increasing the maximum annual assessment of the Association or authorizing any special assessment shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting calling the presence of Members or proxies entitled to cast sixty percent (60%) of all votes of each class of the then Members shall constitute a quorum. If the requested quorum is not present, successive meetings may be called, subject to the same notice requirement until a quorum is present, and the required quorum at any subsequent meeting shall be one-half of the required quorum at the preceding

meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE VI
ASSESSMENT PAYMENTS

Section 1. Non-Payment of Assessments. Any assessment levied in pursuant to this Declaration, or any installment thereof, which is not paid on the date which it is due shall be delinquent and shall together with interest thereon and the costs for collection thereof, as hereinafter provided, thereupon become a continuing lien upon the Lot or Lots belonging to the Member against whom such assessment is levied and shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives successors and assigns. The personal obligation of the Member to pay such assessment shall, in addition, remain his, her or its personal obligation so long as not barred by the applicable statute of limitations, and have a suit to recover a money judgment for non-payment any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without foreclosing or waiving the lien be created to secure the same.

Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within thirty (30) days after it is due shall bear interest in the maximum legal rate of interest, or such lower rate as may be established by the Board of Directors, and may, by resolution of the Board of Directors, subject the Member obligated to pay the same to also pay such "late charges" as the Board may fix. The Association may bring an action at law against the Member personally obligated to pay same, or foreclose on the lien against the Lot or Lots belonging to said Owner/Member in the manner now or hereinafter provided for the foreclosure of Mortgages, Deeds to Secure Debt or other liens on real Property of the State of Georgia containing a power of sale or consent to a decree, and subject to the same requirements, both substantive and procedural, or as otherwise from time to time be provided by law. Each Lot Owner hereby expressly grants to the Association a power of sale in connection with such lien, and each Lot Owner hereby appoints the Association as such Owner's attorney-in-fact for the purpose of exercising such power of sale. The Association shall have the power to bid in the Lot at any judicial or foreclosure sale and to acquire, hold, lease, encumber and convey the same. The personal obligation of the Lot Owner and a lien for assessment in favor of the Association hereunder shall also include: (a) a late or delinquency charge not in excess of the greater of ten dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment thereof paid when due; (b) interest on each such assessment or installment thereof or any delinquency or late charge pertaining thereto at the maximum legal rate of interest, or such lower rate as may be established by the Board of Directors the date of the same was first due and payable; (c) the cost of collection, including court costs, the expenses required for the protection and preservation of the Lot, and reasonable attorneys fees in an amount equal to or the greater of \$250.00 or fifteen percent (15%) of the past due amount plus interest due thereon; and (d) the fair rental value of the Lot from the time of the institution of an action until the sale of the Lot at foreclosure or until judgment is rendered in the action as otherwise satisfied. Any Owner who does not pay any assessment levied pursuant to this Declaration on or before the date when due shall not be entitled to use any recreational facilities located in the Common Areas and Community Facilities

until such assessment is paid in full. All payments on account shall be applied first to late charges, then interest, then costs, then attorney fees, and to the assessment lien first due. All late charges and interest collected should be credited to the common expense fund.

The Association may notify the Holder of the First Mortgage on any Lot for which any assessment levied pursuant to this Declaration becomes delinquent in any other case where the Owner of such Lot is in default with respect to the performance of any other obligation hereunder, but any failure to give such notice shall not affect the validity of the lien for any assessment levied pursuant to the Declaration not provide a defense to any action by the Association for foreclosure for a money judgment or equitable relief, nor shall any such failure affect the priorities established in this Article.

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

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

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

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

- (a) General and special assessments for ad valorem real estate taxes on the Lot;
- (b) The lien of any first priority Mortgage duly recorded on a Lot and lien of any first priority Mortgage recorded prior to the recording of this Declaration; and

(c) The lien of any secondary priority purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee under such second priority purchase money Mortgage is the Seller of the Lot.

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

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

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

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

Section 4. Additional Default. Any recorded First Mortgage secured on a Lot or the Property shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default under such Mortgage (or the indebtedness secured thereby) but failure to include thereof and the protection extended to the Holder of the Mortgage (or the indebtedness secured thereby) by reason of Section 3 of this Article shall not be altered, modified or diminished by reason of such failure.

The provisions of this Section 4 shall not pertain with respect to any Mortgage wherein the Department of Housing and Urban Development has any interest whatsoever.

Section 5. Commencement of Annual Assessment. Except as otherwise herein provided, the annual assessment for any Lot shall become due and payable with a lien on January 1 of each year.

Section 6. Assessment of Declarant. No assessment on any Lot shall be made unless and until same is improved by construction of a permanent dwelling thereon and sold to or occupied by a permanent resident or owner.

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

ARTICLE VII 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 system, including but not limited to water, sewer, gas, telephone, 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 herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines of other utilities may be installed or relocated on the Property except as initially programmed and approved by the Declarant or thereafter approved by the Declarant 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, Declarant or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms thereof.

Section 2. Easement for Declaration. Declarant and Owner hereby reserve for themselves, their successors, and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Declarant and Owner:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary to proper attachments in connection with the transmission of electricity, gas, water, telephone, community antennae, television cables 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 maintenance of such other facilities and equipment as in the sole discretion of Declarant may be reasonably required, convenient or incidental to the completion, improvement 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 the Lots to perform their respective duties.

ARTICLE VIII
GENERAL COVENANTS AND RESTRICTIONS

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

Section 1. Residential Use.

(a) All Lots shall be used for and devoted to use as single family residences, and no business or business activity shall be conducted on any Lot or improvement located on any Lot at any time without express written approval of the Declarant, except that a professional office may be maintained in a Lot, if such maintenance is limited to the individual actually residing in the Lot and, if such maintenance and use is in strict conformance with the provisions of any applicable zoning law, ordinance or regulation. As used in this Declaration, the term "professional office" shall mean rooms used for office purposes by a Member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics; in no event shall any public identification of the profession or professional as such be permitted on any Lot; notwithstanding the foregoing, this restriction shall not be construed to prohibit Declarant or Declarant's representative, designees, agents, or employees from using any Lot owned or leased by Declarant for the purposes of carrying on business related to the development or construction of the Property or the management or promotion of said development, including but not limited to use as a construction office, model home or sales office.

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

occupation of a Lot, agrees to the applicability of this covenant and the incorporation of covenant and the following language into the lease:

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

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

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

(iv) Any Lot Owner who leases a Lot to another person, group or entity, or who no longer occupies a Lot, shall at all times keep the Declarant, during such time as Declarant owns any lot in the Project upon which construction of a dwelling has not been fully completed (including any Additional Property which may be annexed to the Property) upon which construction of a dwelling has not been completed, and thereafter the Board of Directors, informed in writing of the Lot Owner's current address for notice; in the event that Lot Owner should fail to so notify the Declarant or the Board of Directors, then such Lot Owner irrevocably appoints the then-occupant of the Lot as the Lot Owner's agent for notification of any violation of this Declaration, notification of liens and service of all legal process relating to the subject matter of this Declaration. e ad

Section 2. Common Area. The Common Area shall be used by the Owner and its agents, servants, tenants, family members, invitees, and licensees for such other purposes as may be authorized by the Association.

Section 3. Debris. 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.

Section 4. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot except for the initial construction of residences and development of the Property.

Section 5. Signs.

(a) No signs whatsoever shall be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign; provided, however, that in no event any such sign be larger than 18 inches by 24 inches per side, double-faced advertising the Property for sale or rent;

(iii) directional signs for vehicular or pedestrian safety; and

(iv) entry signs used to identify subdivision, marketing signs used to advertise subdivision by Declarant and, in conjunction therewith, brochure holders.

(b) Following the consummation of the sale of any Lot, the sign located thereon shall be removed immediately.

Section 6. Fences. The Association shall have the right and the power to construct or have constructed chain link fences around the tennis courts on the Common Area. Except as set forth in the preceding sentence, no chain link fences or cyclone fences may be placed in any front yard of any Lot. All fences must be approved by the Architectural Standards Committee.

Section 7. Recreational Vehicles, Trailers, etc. Recreational vehicles, trailers, campers, trucks (except pickups and vans), travel buses or any such equipment must be parked in extreme rear of Property and sufficient natural cover erected to shield same from visibility. No inoperative vehicle shall be parked on any Lot for a period of time in excess of fourteen (14) days. No Owners or occupants of any Lot or parcel of land shall repair or restore any vehicle of any kind upon any Lot or upon any parcel of land, except for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. No automobile, truck or vehicle of any type of nature shall be parked in any street or road of the Property at any time.

Section 8. Recreational Equipment. No recreational and playground equipment shall be placed or installed between the street on which any residence on said Lot fronts and a line parallel with the street from the furthest portion of the residence from the street. All recreational and playground equipment to be placed on a Lot shall be approved by the Architectural Standards Committee.

Section 9. Accessory Structures. A detached accessory structure may be placed on a Lot to be used for a playhouse, swimming pool, tennis court, a tool shed, a mailbox, a dog house or a garage; a garage may also be an attached accessory structure. Such accessory structures shall not exceed twenty (20) feet in height and 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 dwelling, an accessory structure placed on a Lot shall be located only behind the dwelling, as such dwelling fronts on the street abutting such Lot. Such accessory structures shall also be located with such

side and rear setback lines as may be required by applicable zoning law. However, there shall be no lighting for tennis courts or other outside lighting, except as may be approved by the Architectural Standards Committee. Any such accessory structure must be approved, in advance, in writing by the Architectural Standards Committee, and the ASC may establish additional standards for such items.

Section 10. Improvement of Lots. All construction of dwellings, accessory structures and all other improvements in Essex Park 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 government agencies and authorities.

(b) Concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot.

(c) Only one mailbox shall be located on any Lot, which shall be approved by the Architectural Committee.

(d) 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 any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.

(e) No exposed above-ground 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 Standards Committee.

(f) Adequate off-street parking shall be provided for each Lot.

(g) All garages must have doors, and each garage door must be coordinated in design and color with the dwelling to which it is appurtenant.

(h) No above-ground swimming pools shall be allowed, and all pools shall be approved by the Architectural Standards Committee.

(i) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) shall contain not less than one thousand six hundred (1,600) square feet.

(j) Exterior TV or radio equipment shall not be permitted which are visible from the street upon which the home faces.

Section 11. Animals. Only common household pets may be kept on any Lot, and shall be kept only in reasonable numbers and in such a manner as not to unduly disturb or interfere with the quiet enjoyment of the owners of other Lots or pedestrian traffic, and in conformity with all city, county and state ordinances with respect to such animals and all such pets shall be registered, licensed, or inoculated as may from time to time be required by law; the maintenance, keeping, boarding or raising of animals (other than common household pets), livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited in the Lot or upon any of the Common Areas; no dogs shall be permitted to roam free on any Lot up upon the Common Areas, and shall at all times be confined indoors or in a pen or on a leash; all structures for the shelter of animals and all pens shall be screened from view from the streets, the adequacy of such screening to be determined in the sole discretion of the Committee; no animals may be kept or bred for commercial purposes. No Lot Owner shall keep more than two cats or two dogs in or about one residence, provided that such domestic pets are not a source of annoyance or nuisance to the other Owners. The Board of Directors have the right to adopt such additional rules and regulations regarding pets as may from time to time consider necessary and appropriate.

Section 12. Accessory Structures Installed by Declarant. Entry signs, fences, walls and landscaping installed by Declarant on the Property shall be and are hereby dedicated to the use and benefit of the Association.

Section 13. Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance throughout the neighborhood, no awnings, shades or window boxes shall be attached to, or hung or used on the exterior of, any window or door of any house, and no railings, fences, walls, antennae or satellite dishes larger than one meter in size shall be installed or constructed upon any Lot or parcel of land without the prior written consent of the Architectural Standards Committee. Further, no foil or other reflective material shall be used on any windows or sunscreens, blinds, shades or for any other purpose, nor shall any window-mounting heating, air conditioning or fan units be permitted. Outside clotheslines or other facilities for drying clothes are specifically prohibited and shall not be erected, placed or maintained upon any Lot or parcel of land, nor shall any clothing, rugs, or other items be hung on any railing, fence, hedge or wall.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement.

(a) Declarant, the Association, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges for or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed as a waiver of the right to do so thereafter.

(b) The Association 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 fifteen (15) days after the mailing of a

written notice of such violation or breach. The right of abatement means the right of the Association, through its agents or employees, to enter at all reasonable times upon any Lot or Structure as to which 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.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any 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. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for successive periods of ten (10) years.

Section 5. Rights and Obligations. Each grantee of the Declarant and Owner, 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 thereof, 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 6. Amendment. This declaration may be amended at any time and from time to time by Declarant (as long as Declarant owns any Lot) and a vote of two-thirds (2/3) of the votes of Lot Owners (other than Declarant) entitled to be cast; provided, however, so long as Declarant owns a lot, any amendment shall require approval of the Federal Housing Administration or the Veterans Administration:

(a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; or

(b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; or

(c) if such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association, or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration.

(d) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable title insurance company to insure loans on the Lots subject to this Declaration. Such amendment would not include the right to re-plat Lots or the Common Area unless limited to changes specifically required by a reviewing agency to meet its requirements. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy five percent (75%) of the votes entitled to be cast; provided, however, such amendment by the Owners shall not be effective unless also signed by Declarant, if Declarant is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest, or privilege herein granted or accorded to the holder of any Deed to Secure Debt encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.

Section 7. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: (1) annexation of additional properties; (2) dedication of Common Area; and (3) amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 8. Mutual Benefits. Declarant/Owner has deposited with Regions Bank, contemporaneously with the execution of this Declaration, the sum of \$29,400.00 which is to be transferred to the Association upon recording of this Declaration and used by the Association to construct a tennis court upon the Common Area and for related purposes. In consideration of this donation, and in consideration of revenue to be realized through the receipt of dues and assessments from future Property owners within the real property described in Exhibit "A" attached, Association, through its acceptance of said donation and as evidenced by its execution hereof, subjects the Common Areas to the use and enjoyment of its future members who will be the homeowners within the real property described in Exhibit "A." Such future homeowner will become members of the Association and shall be subject to all rules, regulations, benefits and privileges associated therewith.

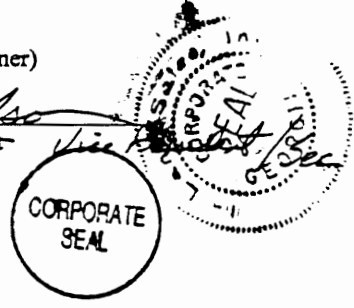
Section 9. Common Area Usage. By execution hereof, the Association, who is the holder of unencumbered, fee simple title to the Common Area hereinabove described, subjects its use and enjoyment to its members in the Phase II Property as herein described, so that members

of the Association by virtue of their declaration shall have equal rights, benefits and obligations as those members whose membership and ownership or use rights were established pursuant to the Declarations of Covenants and Restrictions set forth in Deed Book 8905, Page 23, Cobb County, Georgia real property records. The Association further subjects the areas designated as "sign easement" on the subdivision plat of Essex Park, Phase One, which is recorded in Plat Book 156, Page 38 to the use and benefit of Declarant/Owner, their successors and/or assigns.

IN WITNESS WHEREOF, the undersigned have set hand and seal, this 3 day of ~~July~~ ^{September} 1998.
~~July~~ ^{September} 1998.
~~at~~ ^{at} ~~the~~ ^{the} ~~place~~ ^{place} of

LAND SALES, INC. (Declarant/Owner)

By: *Bruce Hudson*
~~at~~ ^{at} ~~the~~ ^{the} ~~place~~ ^{place} of ~~the~~ ^{the} ~~office~~ ^{office} of ~~the~~ ^{the} ~~President~~ ^{President}
7/3/98
5pm



Signed, sealed and delivered in the presence of:

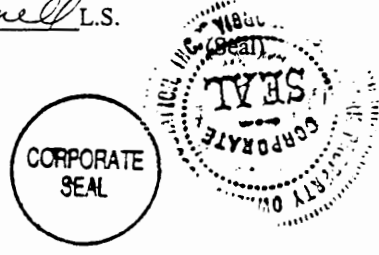
[Signature]
Unofficial Witness

[Signature]
Notary Public



ESSEX PARK PROPERTY OWNERS ASSOCIATION, INC.
(Association)

By: *Kate O'Connell* L.S.
Title *President*



Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness

[Signature]
Notary Public



BK11776PG224

EXHIBIT "A"

ALL THAT TRACT and parcel of land lying and being in Land Lots 90 and 91 of the 19th District and 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

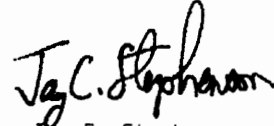
TO ARRIVE AT THE TRUE POINT OF BEGINNING, commence at a point marked by an iron pin located at the common land lot corners of Land Lots No. 58, 59, 90 and 91; running thence South 89 degrees 37 minutes 59 seconds West and along the northerly land lot line of Land Lot No. 90 a distance of 827.83 feet to a point; running thence South 02 degrees 39 minutes 34 seconds West a distance of 442.93 feet to a point, same being the TRUE POINT OF BEGINNING; running thence South 89 degrees 05 minutes 41 seconds East a distance of 239.25 feet to a point; running thence North 86 degrees 19 minutes 12 seconds East a distance of 71.22 feet to a point; running thence South 13 degrees 12 minutes 45 seconds West a distance of 123.91 feet to a point; running thence North 83 degrees 06 minutes 59 seconds East a distance of 84.77 feet to a point; running thence South 17 degrees 43 minutes 28 seconds East a distance of 191.32 feet to a point; running thence South 20 degrees 20 minutes 49 seconds East a distance of 52.04 feet to a point; running thence North 69 degrees 06 minutes 57 seconds East a distance of 128.81 feet to a point; running thence North 64 degrees 59 minutes 32 seconds East a distance of 183.90 feet to a point; running thence North 70 degrees 56 minutes 54 seconds East a distance of 59.53 feet to a point; running thence North 72 degrees 09 minutes 22 seconds East a distance of 133.86 feet to a point; running thence North 72 degrees 17 minutes 03 seconds East a distance of 114.02 feet to a point; running thence South 18 degrees 52 minutes 42 seconds West a distance of 51.96 feet to a point; running thence South 72 degrees 39 minutes 30 seconds East a distance of 163.49 feet to a point; running thence North 88 degrees 26 minutes 58 seconds East a distance of 123.35 feet to a point; running thence South 32 degrees 53 minutes 48 seconds East a distance of 77.15 feet to a point; running thence South 74 degrees 31 minutes 18 seconds East a distance of 166.50 feet to a point; running thence South 01 degrees 49 minutes 12 seconds West a distance of 684.74 feet to a point located on the southerly land lot line of Land Lot No. 91; running thence North 89 degrees 16 minutes 00 seconds West and along the southerly land lot lines of Land Lots No. 91 and 90 a distance of 1,047.80 feet to a point; running thence North 88 degrees 26 minutes 57 seconds West and continuing along the southerly land lot line of Land Lot 90, a distance of 462.20 feet to a point marked by an iron pin; running thence North 02 degrees 41 minutes 29 seconds East a distance of 543.62 feet to a point; running thence North 02 degrees 39 minutes 34 seconds East a distance of 358.65 feet to a point, same being the point of beginning; being all as shown upon that plat of survey prepared by Samuel G. Evans Jr., Registered Land Surveyor, dated June 22, 1994; said plat being made a part hereof by this reference thereto.

BK: 1776PG225

AMENDMENTS

6524

Deed Book 13436 Pg 153
Filed and Recorded Oct-29-2001 11:02am
2001-0181906



Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

2/12

9/20

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309
Attention: Jay Lazega

STATE OF GEORGIA
COUNTY OF COBB

Reference: Deed Book 11776
Page 203

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR ESSEX PARK SUBDIVISION**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Essex Park Subdivision was recorded on October 13, 1998, in Deed Book 11776, Page 203, et seq., Cobb County, Georgia Records ("Phase II Declaration"), as may be amended; and

WHEREAS, Article IX, Section 6 of the Phase II Declaration provides for amendment of the Phase II Declaration by a vote of two-thirds (2/3) of the votes entitled to be cast by lot owners subject to the Phase II Declaration; and

WHEREAS, at least two-thirds (2/3) of the lot owners subject to the Phase II Declaration entitled to cast votes approved this amendment to the Declaration;

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

1.

Article V of the Declaration is hereby amended by adding the following Section 6 thereto:

Section 6. Capital Contribution Assessment Upon Transfer of Lots. Upon any and each conveyance or transfer of any Lot to any person, such Lot and the Owner thereof shall be assessed and be subject to a non-refundable initiation fee of \$350.00 (the "Initiation Fee").

The Initiation Fee shall be due and payable at the time of each such conveyance or transfer, and shall be collected at the closing of each such conveyance or transfer. The Initiation Fee shall constitute a special assessment and continuing lien against such Lot, and a personal obligation of the Owner of such Lot, from the time it is due until it is paid in full, and is in addition to the annual, specific and other special assessments provided for herein.

The proceeds from Initiation Fees will be deposited in the Association's reserve account or accounts to be used for unexpected repairs and unforeseen expenditures which are not included as line items in the Association's annual budget for such year.

IN WITNESS WHEREOF, the undersigned officers of Essex Park Property Owners' Association, Inc., hereby certify that the above amendment to the Phase II Declaration was duly adopted by the required majority of the lot owners at Essex Park subject to the Phase II Declaration.

This 6th day of OCT., 2001.

Sworn to and subscribed to before me this 6th day of OCT., 2001.

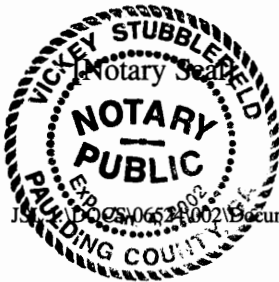
ESSEX PARK PROPERTY OWNERS' ASSOCIATION, INC.

Hannah Trombetti
Witness

By: [Signature] (Seal)
President

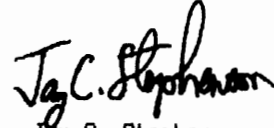
Vickey Stubblefield
Notary Public

Attest: [Signature] Secretary
Signature/Title



[Corporate Seal]





Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

2/2

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309
Attention: Jay Lazega

STATE OF GEORGIA
COUNTY OF COBB

Reference: Deed Book 8905
Page 23

**AMENDMENT TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS FOR ESSEX PARK**

WHEREAS, the Declaration of Covenants and Restrictions for Essex Park was recorded on June 8, 1995, in Deed Book 8905, Page 23, et seq., Cobb County, Georgia Records ("Declaration"), as may be amended; and

WHEREAS, Article XI, Section 1 of the Declaration provides for amendment of the Declaration by an instrument executed by ninety (90%) percent of the lot owners at Essex Park subject to the Declaration; and

WHEREAS, at least ninety (90%) percent of the lot owners at Essex Park subject to the Declaration executed an instrument approving this amendment to the Declaration, which instruments are maintained in the permanent records of the Essex Park Property Owners' Association, Inc. ("Association");

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

1.

Article XI, Section 1 of the Declaration is hereby amended by deleting the phrases "ninety percent (90%) of the Lot Owners" and "seventy-five percent (75%) of the Lot Owners" therefrom and substituting "two thirds (2/3) of the Lot Owners" therefor.

IN WITNESS WHEREOF, the undersigned officers of Essex Park Property Owners' Association, Inc., hereby certify that the above amendment to the Declaration was duly adopted by the required majority of the lot owners at Essex Park subject to the Declaration, with the instruments executed by such lot owners maintained in the permanent records of the Association..

This 6th day of Oct., 2001.

Sworn to and subscribed to before me this 6th day of Oct., 2001.

ESSEX PARK PROPERTY OWNERS' ASSOCIATION, INC.

Hannah Zombetta
Witness

By: [Signature] (Seal)
President

Vickey Stubblefield
Notary Public

Attest: [Signature]
Secretary

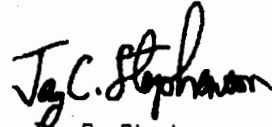


[Corporate Seal]



D:\DOCS\00524\002\Documents\Essex Park I Amt % Amt.doc

Deed Book 13633 Pg 5081
Filed and Recorded Nov-20-2002 10:36am
2002-0224938



Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309
Attention: Jay Lazega

STATE OF GEORGIA
COUNTY OF COBB

Reference: Deed Book 11776
Page 203

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR ESSEX PARK SUBDIVISION**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Essex Park Subdivision was recorded on October 13, 1998, in Deed Book 11776, Page 203, *et seq.*, Cobb County, Georgia Records ("Phase II Declaration"), as may be amended; and

WHEREAS, the Declaration of Covenants and Restrictions for Essex Park was recorded on June 8, 1995, in Deed Book 8905, Page 23, *et seq.*, Cobb County, Georgia Records (the "Phase I Declaration"), is being amended simultaneously with this Amendment to subject all property subject to the Phase I Declaration to this Phase II Declaration, as may be amended; and

WHEREAS, the owners of lots subject to the Phase II Declaration desire to amend the Phase II Declaration to acknowledge such submission of the Phase I property to this Phase II Declaration and for other purposes, as provided herein; and

WHEREAS, Article IX, Section 6 of the Phase II Declaration provides for amendment of the Phase II Declaration by a vote of two-thirds (2/3) of the votes entitled to be cast by lot owners subject to the Phase II Declaration; and

WHEREAS, at least two-thirds (2/3) of the lot owners subject to the Phase II Declaration entitled to cast votes approved this Amendment to the Declaration; and

WHEREAS, these Amendments do not alter, modify, change or rescind any right, title, interest, or privilege held by any Mortgage holder; provided, however, in the event a court of competent jurisdiction determines that these Amendments do so without such Mortgage holder's written consent, then these Amendments shall not be binding on the Mortgage holder so involved, unless it consents hereto; and if such consent is not forthcoming, then the provisions of the Declaration effective prior to these Amendments shall control with respect to the affected Mortgage holder;

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

1.

The Phase II Declaration is hereby amended to subject to the Phase II Declaration all property previously subjected to the Phase I Declaration. Further, the Declaration is hereby amended by deleting all references to the "Phase II Property" therein and substituting "Property" therefor. For convenience, that property is identified on Exhibit "A" attached hereto and incorporated herein by reference.

2.

Article I, Section 1 of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following therefor:

Section 1. "Architectural Standards Committee" means the committee established by the Board of Directors to exercise the architectural review powers set forth in Article II hereof.

3.

Article I, Section 9 of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following therefor:

Section 9. "Lot" means a portion of the Property intended for ownership and use as a single-family dwelling site as permitted in this Declaration and as shown on the plats for the Property, including the plats for both Phase One and Phase Two of Essex Park, or amendments or supplements thereto, recorded in the Cobb County, Georgia land records.

4.

Article I, Section 10 of the Declaration is hereby amended by adding the following to the end thereof:

For purposes hereof, the holder of a tax deed on a Lot shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Lot.

5.

Article I, Section 12 of the Declaration is hereby amended by adding the following to the end thereof:

The Property also includes that real property described on Exhibit "A" to this Amendment. The Property 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.*, as such act may be amended from time to time.

6.

Article I of the Declaration is hereby amended by adding the following Section 14 thereto:

Section 14. "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.*, as such act may be amended from time to time.

7.

Article II, Section 1(b) of the Declaration is hereby amended by deleting the last sentence thereof in its entirety and substituting the following therefor:

The purpose of this regulation is to ensure that written Architectural Standards Committee ("ASC") approval is obtained prior to making any exterior change, alteration or construction on a Lot (including painting, regrading or landscaping modifications), or any alteration of the Lot which affects the exterior appearance of the Lot. Review and approval of any application pursuant to this Section may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board nor the ASC shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Association, the Board, the ASC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design or quality of approved construction on or modifications to any Lot, nor may any action be brought against the Association, the Board, the ASC, or any member thereof, for any such injury, damage or loss.

If the ASC fails to approve or to disapprove any application within forty-five (45) days after the application and all information as the ASC may reasonably require have been submitted, then the Owner submitting the application may issue written notice, by certified mail, to the ASC chairperson or the Association president, informing of the Owner's intent to proceed with the modification as identified in the application, unless the Association issues a written disapproval of the application within ten (10) days of receipt of the Owner's notice. If the ASC and Board fail to issue such written disapproval within that ten (10) day period, then its approval will not be required and this Section will be deemed complied with as to the items specifically identified in the application; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, Bylaws or Association rules, or of any applicable zoning or other laws.

8.

Article II, Section 1(c) of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following therefor:

(c) Architectural Standards Committee. The Architectural Standards Committee shall constitute a standing committee of the Association. The ASC shall consist of the Board unless the Board delegates to other Persons the authority to serve on the ASC. Each Owner acknowledges that the members of the Board and the ASC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of either the Board or the ASC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board or the ASC, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

9.

Article IV, Section 1 of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following therefor:

Section 1. Membership. Every Owner of a Lot shall be deemed to have a membership in the Association. This is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner,

whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast or more than one (1) office held for each Lot owned.

10.

Article V, Sections 1(d) and 1(e) are hereby amended by moving and renaming those Sections to Article III as Sections 14(a) and 14(b), respectively, and the new Section 14(b) is hereby further amended by adding the following to the end thereof:

Notwithstanding the above, after issuing notice of a violation to an Owner hereunder, the Board shall not be required to issue repetitive notices to that Owner for the same or similar violations before exercising its self help power to enter the Lot and perform the maintenance or repair at the Owner's expense.

11.

Articles V and VI of the Declaration are hereby amended by deleting those Articles in their entirety and substituting the following therefor:

Article V
Assessments

Section 1. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, as may be authorized by the Board.

Section 2. Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, to be established and collected as hereinafter provided; (iii) Capital Contribution/Initiation Fee assessments under Section 6 hereof, and (iv) specific special assessments levied by the Board hereunder against any particular Lot, including, but not limited to, reasonable fines imposed hereunder and specific assessment imposed in accordance with Section 44-3-225(a) of the Act.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, 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. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Cobb County, Georgia records evidencing the lien created under the Act and this Declaration.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever, including, but not limited to, nonuse of the Common Area.

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

Section 3. Computation of Operating Budget and Assessment. Prior to the beginning of each fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Property during the coming year, and the Board shall establish the annual assessment or installments for the coming year. The Board shall cause the budget and notice of the assessment(s) to be delivered to each member at least thirty (30) days prior to the due date for such assessment, or the first installment thereof. The budget and the assessment shall become effective unless disapproved at a duly called Association meeting by a vote of a majority of the total Association membership.

If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. However, the Board may propose a new or adjusted budget at any time during the year by causing the proposed budget and assessment to be delivered to the members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the members, as provided in the Bylaws for special meetings, the new or adjusted budget and assessment shall take effect without a meeting of the members.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

Section 4. Special Assessments. In addition to the annual and specific assessments provided for in subsections (b) and (c) above, the Board may at any time levy a special assessment against all Owners, if such special assessment is approved by at least two-thirds (2/3) of those Owners present or represented by proxy at a duly called special or annual meeting of the members, notice of which shall specify that purpose, or by ballot or written consent in lieu of such meeting.

Section 5. Capital Budget and Contribution. The Board may prepare an annual or multi-year capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) above.

Section 6. Capital Contribution Assessment Upon Transfer of Lots. Upon any and each conveyance or transfer of any Lot to any person, such Lot and the Owner thereof shall be assessed and be subject to a non-refundable initiation fee of \$350.00 (the "Initiation Fee").

The Initiation Fee shall be due and payable at the time of each such conveyance or transfer, and shall be collected at the closing of each such conveyance or transfer. The Initiation Fee shall constitute a special assessment and continuing lien against such Lot, and a personal obligation of the Owner of such Lot, from the time it is due until it is paid in full, and is in addition to the annual, specific and other special assessments provided for herein.

The proceeds from Initiation Fees will be deposited in the Association's reserve account or accounts to be used for unexpected repairs and unforeseen expenditures which are not included as line items in the Association's annual budget for such year.

Section 7. Statement of Account. Any Owner, mortgage holder on a Lot, 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 such 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 fee, not exceeding ten (\$10.00) dollars or such higher amount as may be 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.

Section 8. Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the Board's option, either be distributed equally to the Owners or credited to the next assessment chargeable to the Owners, or added to the Association's reserve account.

Article VI
Delinquent Assessments

Section 1. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(i) If the annual assessment or any part thereof is not paid in full within ten (10) days of the due date, or such later date as may be provided by the Board, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten (10%) percent per annum or such higher rate as permitted by the Act shall accrue from the due date.

(ii) If part payment of assessments and related charges is made, the amount received may be applied by the Board, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments. Late charges may be assessed on delinquencies which are created by the application of current payments to outstanding delinquent assessments or charges.

(iii) If the Board permits payment of the annual assessments in installments, and assessments, fines or other charges, or any part thereof, due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date due, then the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment with ten (10) days written notice.

(iv) If assessments, fines or other charges, or any part thereof, remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law, including reasonable attorney's fees actually incurred, and suspend the Owner's and Occupant's right to use the Common Area.

12.

Article VIII, Section 1(a) of the Declaration is hereby amended by adding the following to the end thereof:

Number of Occupants. The maximum number of Occupants in a dwelling on a Lot shall be limited to two (2) people per bedroom in the dwelling, as such dwelling was originally constructed. "Occupancy," for purposes hereof, shall be defined as staying overnight in a dwelling for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a dwelling on the date this Amendment is recorded in the Cobb County, Georgia records. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

13.

Article VIII, Section 1(b) of the Declaration is hereby amended by adding the phrase "*Leasing of Lots, when permitted under subsection (c) below, must comply with all provisions of this subsection (b). When leasing of Lots is permitted under subsection (c) below,*" to the beginning of the first sentence thereof.

14.

Article VIII, Section 1 of the Declaration is hereby amended by adding the following subsection (c) thereto:

(c) Restriction on Leasing of Lots. In order to preserve the character of the Property as predominantly owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Section. For purposes hereof, "leasing" shall mean the regular occupancy of a Lot by any occupant without the Owner of such Lot, or a parent, child or spouse of such Owner, also occupying the Lot as his or her primary residence. Except as provided herein, the leasing of Lots shall be prohibited. The only Owners authorized to lease hereunder are those that either: (1) own their Lots on the date this Amendment is recorded in the Cobb County land records and are leasing their Lots in accordance with the Declaration on such date, or (2) receive a written hardship leasing permit from the Board as provided below.

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

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) a Lot Owner must relocate his or her residence and cannot, within ninety (90) days from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) a Lot Owner dies and the Lot is being administered by his or her estate; and (3) a Lot Owner takes a leave of absence or temporarily relocates and intends to return to reside in the dwelling on the Lot. Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant.

(ii) Applicability of this Section 1(c). Notwithstanding the above, this Section 1(c) shall not apply to any leasing transaction entered into by the Association, or by any mortgage holder on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage. Such parties shall be permitted to lease a Lot without first obtaining a permit in accordance with this Section.

15.

Article VIII, Section 5(a)(ii) of the Declaration is hereby amended by deleting the phrases "*or For Rent*" and "*or rent*" therefrom.

16.

Article VIII, Section 10(j) of the Declaration is hereby amended by deleting that Section in its entirety and substituting the following therefor:

(j) Antennas and Satellite Dishes. No transmission antenna, of any kind, may be erected anywhere on the Property without written approval of the Board of Directors or the Architectural Standards Committee. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Property, including a Lot. DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association authorized by the FCC, both as may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. Except as provided by this Section, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Property, whether attached to a home or structure or otherwise, except by the Association on Common Area.

17.

Article IX, Section 1 of the Declaration is hereby amended by adding the following subsection (c) thereto:

(c) In addition to the above, the Association shall have the power to levy fines as provided in the Bylaws and pursue all other remedies available under the Act and Georgia law for violation of this Declaration, the Bylaws or the Association's rules and regulations.

IN WITNESS WHEREOF, the undersigned officers of Essex Park Property Owners' Association, Inc., hereby certify that the above amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Essex Park was duly adopted by the required majority of the lot owners at Essex Park.

This 11th day of November, 2002.

Sworn to and subscribed to before me this 14 day of NOV, 2002.

Tracy Hinds
Witness

Vanette M. Carroll
Notary Public

[Notary Seal]

JSL:253184_1.DOC (6524)



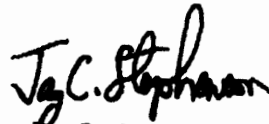
ESSEX PARK PROPERTY OWNERS' ASSOCIATION, INC.

By: [Signature] (Seal)
President

Attest: [Signature]
Secretary

[Corporate Seal]





Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P.C.
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309
Attention: Jay Lazega

STATE OF GEORGIA
COUNTY OF COBB

Reference: Deed Book 8905
Page 23

**AMENDMENT TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS FOR ESSEX PARK**

WHEREAS, the Declaration of Covenants and Restrictions for Essex Park was recorded on June 8, 1995, in Deed Book 8905, Page 23, *et seq.*, Cobb County, Georgia Records (the "Phase I Declaration"), as may be amended; and

WHEREAS, the Phase I Declaration governs lots in Phase I of the Essex Park subdivision;
and

WHEREAS, Phase II of the Essex Park subdivision is subjected to that Declaration of Covenants, Conditions, Restrictions and Easements for Essex Park Subdivision, recorded on October 13, 1998, in Deed Book 11776, Page 203, *et seq.*, Cobb County records (the "Phase II Declaration"); and

WHEREAS, the owners of lots subject to the Phase I Declaration desire to amend the Phase I Declaration by striking the Phase I Declaration in its entirety and subjecting the Phase I lots to the Phase II Declaration, as amended, so that both Phase I and Phase II of the Essex Park subdivision will be subjected to the Phase II Declaration, as amended and as provided herein; and

WHEREAS, Article XI, Section 1 of the Phase I Declaration provides for amendment of the Phase I Declaration by an instrument executed by two-thirds (2/3) of the lot owners at Essex Park subject to the Phase I Declaration; and

WHEREAS, at least two-thirds (2/3) of the lot owners at Essex Park subject to the Phase I Declaration executed an instrument approving this amendment to the Phase I Declaration, which instruments are maintained in the permanent records of the Essex Park Property Owners' Association, Inc. ("Association"); and

WHEREAS, the owners of lots subject to the Phase II Declaration concurrently herewith are amending the Phase II Declaration for the submission of the Phase I lots to the Phase II Declaration;

NOW, THEREFORE, the Phase I Declaration is hereby amended by striking the Phase I Declaration, and all exhibits thereto, in their entirety and simultaneously substituting therefor the Declaration of Covenants, Conditions, Restrictions and Easements for Essex Park Subdivision, recorded on October 13, 1998, in Deed Book 11776, Page 203, *et seq.*, Cobb County, Georgia records, as amended and as may be amended. Hereafter, all lots and property previously subjected to the Phase I Declaration shall be subject to all terms, conditions, restrictions, covenants and easements of the Phase II Declaration, all of which shall run with and bind the Phase I lots and property, and all parties having any right, title or interest in such property, their heirs, successors and assigns, and shall inure to the benefit of each owner of a lot or property subjected thereto.

IN WITNESS WHEREOF, the undersigned officers of Essex Park Property Owners' Association, Inc., hereby certify that the above amendment to the Phase I Declaration was duly adopted by the required majority of the lot owners at Essex Park subject to the Phase I Declaration, with the instruments executed by such lot owners maintained in the permanent records of the Association..

This 11th day of November, 2002.

Sworn to and subscribed to before me this 14 day of Nov, 2002.

ESSEX PARK PROPERTY OWNERS' ASSOCIATION, INC.



Tracy Huddy
Witness

By: [Signature] (Seal)
President

Annette M. Carroll
Notary Public

Attest: [Signature] / secretary
Signature/Title

[Notary Seal]

[Corporate Seal]

JSL:253182_1.DOC (6524)

Deed Book **13633** Pg **5090**
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.



Notary Public, Paulding County, Georgia
My Commission Expires Oct. 22, 2006