



Section 4. By-laws. "By-laws" shall mean the By-laws of Serenity Village Homeowners Association, Inc.

Section 5. Committee. "Committee" shall mean the architectural review committee created pursuant to Article VII below.

Section 6. Common Area. "Common Area" shall mean all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by or dedicated or reserved to the Association for the common use and enjoyment of the Owners.

Section 7. Declarant. "Declarant" shall mean SERENITY VILLAGE SUBDIVISION, INC. and its successors in title and assigns, provided any such successor in title or assign shall acquire for the purpose of development or sale all or any portion of the Property (as hereinafter defined), and provided further, in the instrument of conveyance to any such successor in title or assign, such successor in title or assign is designated as the "Declarant" hereunder by the Grantor of such conveyance, which Grantor shall be the Declarant hereunder at the time of such conveyance. Further, upon such designation of successor Declarant, all rights and obligations of the former entity who was a part of the Declarant in and to such status as Declarant shall cease.

Section 8. Declaration. "Declaration" shall mean and refer to this Declaration of Covenants, Restrictions and Easements for Serenity Village.

Section 9. Development Guidelines. "Development Guidelines" shall mean the standard of conduct, maintenance or other activity generally prevailing in Serenity Village, as the case may be. Such standards may be more specifically determined by the Board or the Committee.

Section 10. Improvement. "Improvement" shall mean any and all building site development(s), betterment(s), modification(s) or construction, including, but not limited to, buildings, structures, walks, towers, tanks, patios, driveways, signs, walls, fences, screens, parking areas, drainage conduit, excavation and grading.

Section 11. Lot. A "Lot" or "Lots" shall mean any portion of the Property intended for any type of independent ownership for use and occupancy for residential purposes as may be allowed by this Declaration.

Section 12. Member. "Member" shall mean any member of the Association.

Section 13. Mortgagee. "Mortgagee" shall mean any mortgage holder, its successors and assigns, so long as said mortgage holder holds fee title or a security interest in any Lot. Mortgage holder shall be deemed to include the holder of any mortgage, deed of trust, deed to secure debt or other security instrument.

Section 14. Occupant. "Occupant" shall mean any person occupying all or any portion of a building located on a Lot for any period of time, regardless of whether such person is a tenant or the owner of such Lot.

Section 15. Owner. "Owner" shall mean the record owner (including Declarant), whether one or more persons or entities, of a fee simple title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation; provided, however, the term "Owner" shall include a lessee if the lease from Declarant or other record owner expressly provides that such lease is subject to this Declaration and is for a period in excess of one year.

Section 16. Person. "Person" shall mean any individual, corporation, firm, association, partnership, trust or other legal entity.

Section 17. Plans. "Plans" shall mean a package including the site plan, landscaping plan and architectural elevations for a particular building.

Section 18. Property. "Property" shall mean the real property described on Exhibit "A" attached hereto and incorporated herein by reference and any additional property subjected to this Declaration pursuant to Article XVII below.

Section 19. Restrictions. "Restrictions" shall mean all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

Section 20. Supplemental Declaration. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to the Declaration, imposes additional restrictions and obligations on the land described therein, or both.

## ARTICLE II PROPERTY RIGHTS

Section 1. Rights Acquired. Every Grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, whether or not such deed or conveyance shall be signed by such person, and whether or not such person shall otherwise consent in writing, shall take subject to this Declaration and to the terms and conditions hereof, and will be deemed to have consented to said terms and conditions.

Section 2. Right of Enjoyment. Every Owner of a Lot shall have a right and easement to use and enjoy the Common Area, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Area by all other Owners. The Association may permit persons who are not Owners of Lots to use and enjoy part or all of the Common Area subject to such limitations, and upon such terms and conditions, as it may from time to time establish.



ARTICLE VI  
COMMON AREA AND ASSESSMENTS

Section 1. Common Area. The Association shall maintain and keep in good repair the Common Area and Areas of Common Responsibility, if any, with such maintenance to be provided by the assessments hereinafter defined. Such maintenance shall include but not be limited to maintenance, repair and replacement of all landscaping and other flora, structures and improvements situated upon the Common Area or Areas of Common Responsibility and payment of taxes and insurance thereon, all drainage, detention and retention areas originally maintained by Declarant to the extent same are not maintained on an ongoing basis by a governmental entity, all property outside of Lots located within the area which was originally maintained by Declarant and utilities and utility services serving such Common Area or Areas of Common Responsibility. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without Lionshead, where the Board has determined that such maintenance would benefit all Owners.

Section 2. Creation of a Lien and Personal Obligation of Assessments. The Declarant, for each Lot, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor hereby agrees to pay to the Association:

(a) Annual assessments or charges, and  
 (b) Special assessments, such assessments to be established and collected as hereinafter provided.  
 (c) Lot assessments which shall include expenses of the Association which benefit less than all of the Lots, which may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received, expenses incurred by the Association pursuant to Article V hereof and reasonable fines as may be imposed in accordance with the terms of the Declaration and By-Laws. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association, the Board or the Declarant and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section.

The annual, special and Lot assessments, together with interest, late charges, costs, fines, fair rental value of the Lot in accordance with the Act and reasonable attorneys' fees, shall be charged on the Lots and shall be a continuing lien upon the Lots against which each such assessment is made. Such assessments, together with interest, late charges, costs, fines and reasonable attorneys' fees, shall be the personal obligation of the Owner at the time when the assessment fell due. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any assessments thereafter becoming due from the lien thereof; and all dues and assessments due shall be paid in full before any sale or transfer may take place.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy a special assessment applicable to any particular calendar year for the purpose of deferring, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or Areas of Common Responsibility.

Section 4. Uniform Rate of Assessment. Annual assessments must be fixed at a uniform rate for all Lots and may be collected on dates fixed by the Board. Unless otherwise stated, annual assessments shall be paid in annual installments.

Section 5. Due Dates of Annual Assessments. The annual assessments provided for herein shall commence as to a Lot on the first day of the month immediately following the conveyance of such Lot to a person who has not purchased such Lot for the purpose of construction of a residence and resale of such Lot and residence. Lots which have not been so conveyed shall not be subject to assessment. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of the assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 6. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent and shall incur a late charge as determined by the Board. In addition, such delinquent assessment shall bear interest (not to exceed the lesser of the maximum rate allowable by law or eighteen percent (18%) per annum on the principal amount due). The Association may bring an action at law against the Owner personally obligated to pay the same or may foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of its Lot or any building on its Lot. The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale to enforce its lien, and to acquire and hold, lease, mortgage and convey the same. During the period owned by the Association following foreclosure, no assessment shall be assessed or levied on such Lot foreclosed upon. The Association shall also have the right to pursue a money judgment against the Owner to recover unpaid assessments.

Section 7. Subordination of the Lien to Mortgages and Taxes. The foregoing to the contrary notwithstanding, the lien of the assessments provided for herein shall be subordinate to (i) the lien of any first

mortgage or deed to secure debt made in good faith and for value on any Lot, (ii) all ad valorem taxes and other levies which, by law, would be superior thereto and (iii) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot. Sale or transfer of any Lot shall not affect the assessment lien.

Section 8. Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant; or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in Atlanta, Georgia. Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Area or any of the improvements maintained by the Association shall be given in connection with such loan.

Section 9. Initiation Fee. Upon conveyance of title to a Lot to the first Owner, other than the Declarant or a builder who has purchased such Lot for the purpose of construction of a residence and resale, an initiation fee in the amount of five hundred and no/100 dollars (\$500.00) shall be collected from the purchaser at the closing of such transaction and paid to the Association. The initiation fee shall constitute a specific assessment against the Lot, shall be in addition to, not in lieu of, the annual assessment and shall not be considered an advance payment of such assessment. The initiation fee may be used by the Association for any purpose, including, without limitation, for the payment of operating expenses of the Association and other expenses incurred by the Association pursuant to the provisions of this Declaration.

## ARTICLE VII ARCHITECTURAL CONTROL

Section 1. Creation. There is hereby created an architectural review committee ("Committee") which shall consist of three (3) individual members. The right to appoint and remove all members to the Committee shall be and is hereby vested solely in Declarant, its successors and assigns, until such time as Declarant has relinquished such right to appoint said members. Upon surrender of the right to appoint said Committee members by the Declarant, the right to appoint said members shall be vested in the Board.

Section 2. Duties. No building, fence, wall, Improvement or other structure shall be commenced, erected or maintained upon the Property or any Lot thereon, nor shall any exterior addition to or change or alteration thereon be made until the Plans showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to the Development Guidelines by the Committee.

Section 3. Approval. In order to attempt to obtain such approval of the Committee, the Owner shall submit a site plan and architectural elevations and landscaping plan or whichever of such plans are applicable, to the Committee. So long as Declarant has the right to appoint the members of the Committee, such Plans shall be delivered to Declarant. Upon receipt of all such plans required to be reviewed, the Committee shall have fifteen (15) days within which to review same. In the event the Committee fails to approve or disapprove such plans within fifteen (15) days after said submission of plans, approval will be deemed to have been granted. The Committee shall have the right to disapprove plans, details or specifications submitted to it if they are not in accordance with the Declaration, if they are incomplete, if the Committee deems the Plans, or any part thereof, to be contrary to the best interests of the Property and of the Owners or if they are not in conformity with the Development Guidelines. Such disapproval shall be given to the Owner in writing. In the event Owner's Plans are disapproved by the Committee, the Owner may resubmit any corrected, amended or new Plans to the Committee no sooner than ten (10) days after the date of such disapproval. No temporary structure shall be installed or maintained on any property or Lot without the specific written approval of the Committee. All applications for approval of any temporary structures will include provisions for its being dismantled and removed from the Lot in question.

Section 4. Violation. In the event any Owner or Occupant, or its agents or representatives, commences construction of any Improvement, alteration or construction without the prior written approval of the Committee as required by this Article, then the Committee, through the Association, or the Declarant shall have the right to enforce this section by obtaining a restraining order from the court having proper jurisdiction over this matter. The costs of any such successful enforcement by the Committee shall be levied against the Owner of the Lot upon which such construction was commenced. The Committee shall have the right to waive the requirements of this Article, at its sole discretion, as to construction by any Owner.

Section 5. Variances. The Committee shall have the power and authority, in its sole discretion, to grant variances in compliance with the Development Guidelines, provided, however, that such variances shall be reasonably consistent with the purpose of this Declaration and shall not materially or adversely affect existing Improvements. Whenever, in the exercise of its discretion, the Committee grants a variance to the Development Guidelines, each Owner and/or Occupant of a Lot hereby acknowledges that such variance shall constitute a waiver of any conflicting provisions of this Declaration and the Development Guidelines. Each Owner and/or Occupant of a Lot appoints the Committee as its true and lawful attorney-in-fact for the limited

purpose of consenting to and granting variances in compliance with the Development Guidelines in accordance with the terms of this section.

Section 7. Rights of Committee: The Board may employ architects, engineers, or other Persons as it deems necessary to enable the Committee to perform its review. The Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the Committee for all matters delegated.

Section 8. Disclaimer as to Committee Approval. Plans and specifications are not reviewed for engineering or structural design or quality of materials, and by approving such Plans and specifications neither the Committee, the members thereof, the Declarant or its officers or directors nor the Association or its officers or directors assumes liability or responsibility therefor, nor for any defect in any structure or Improvements constructed from such Plans and specifications. Neither Declarant, the Association, the Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting Plans and specifications to any of them for approval, or to any Owner of property affected by this Declaration by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Plans or specifications. Every person who submits Plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Committee, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

#### ARTICLE VIII INSURANCE

Section 1. Casualty Insurance on Insurable Common Area. The Association shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are included in the annual assessments made by the Association.

Section 2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area Improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a special assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other annual assessments made against such Lot Owner.

Section 3. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

#### ARTICLE IX USES

##### Section 1. Permitted Uses.

(a) The Property shall be used solely for residential purposes allowed by the Zoning Ordinances of DeKalb County, Georgia adopted from time to time applicable to the portion of the Property in question.

(b) No Owner may use the Lot or any portion of the Property in such a manner as to increase the fire insurance rating applicable to present or future improvements of other Lots or properties in the immediate vicinity of the Lot.

Section 2. Nuisances. No Lot or any portion of the Property shall be used so as to cause a nuisance. A nuisance shall be defined to include any objectionable noise or sound, smoke, the emission of noxious, toxic or corrosive fumes, the emission of dust, dirt or fly ash or the use, production, storage or handling of fire or explosive hazards. Such usage may be objectionable if it so annoys, disturbs or affects the Owners and/or Occupants of any building or Lot within the Property or the Owners or Occupants of property contiguous to the Property, so as to obstruct or interfere with the reasonable or compatible use of such other Lot or property, so as to render usage of the building or Improvements dangerous or damaging to persons or property thereon or in the event such usage violates federal, state, county or municipal law.

Section 3. Animals. No poultry, fowl, livestock or other animal not considered a household pet may be kept on any Lot. No pets shall be kept, bred or maintained for any commercial purposes. No pit bulldogs or other dogs determined in the sole discretion of the Board to be dangerous dogs may be brought onto or kept on the Property or any Lot at anytime by an Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of an Owner or Occupant of any Lot or which creates a nuisance or unreasonable

disturbance, as may be determined in the sole discretion of the Board of Directors, must be permanently removed from the Property upon seven (7) days written notice by the Board of Directors. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet. Any pet which, in the sole discretion of the Board, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner. Pets must be leashed or under the control of a responsible Person at all times while outside of enclosed or electronically controlled areas on a Lot. Pets may not be left unattended outdoors except in enclosed or fenced areas as determined and approved by the Board of Directors or the Committee as the case may be. Pets may not be chained and must be confined in an enclosed area. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property or a Lot without the prior written approval of the Board of Directors or the Committee, as the case may be.

Section 4. Trash and Garbage. No Lot shall be used for the disposal of or a dumping ground for trash, garbage, rubble or debris of any type.

Section 5. Temporary or Mobile Structures or Trailers. No mobile home, travel trailer or shack is permitted except during the period that construction of a permanent residence on a Lot is in progress or in relation to Declarant's construction and development activities. Trailers designed to carry light pleasure boats or ATVs are permitted as long as they are parked in side or rear yards and screened from view of the street.

Section 6. Antennas. No satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind shall be placed, allowed, or maintained within the Property, except that Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Property, and (i) satellite dishes designed to receive direct broadcast satellite service which are one (1) meter or less in diameter; (ii) satellite dishes designed to receive video programming services via multi-point distribution services which are one (1) meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals; ((i), (ii), and (iii), collectively, "Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Lot (generally being the rear of said Lot) at which an acceptable quality signal can be received and is not visible from the street, Common Areas, or neighboring property or is screened from the view of adjacent Lots in a manner consistent with the Development Guidelines and any design guidelines.

Section 7. Clotheslines, Garbage Cans, Etc. All garbage cans, clotheslines, equipment, air conditioning equipment, woodpiles and similar items shall be kept screened by adequate planting or fencing so as to conceal them from view by neighboring residences and streets, and may be maintained in the rear yard of a Lot only.

Section 8. Recreational Equipment. Recreational and playground equipment shall be placed or installed only upon the rear of a Lot as approved by the Committee. Basketball goals may be placed adjacent to the driveway, but shall be painted to match the house. No above ground pool shall be allowed.

Section 9. Non-Discrimination. No Owner or Person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot to any Persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this covenant shall run with the land and shall remain in effect without any limitation in time.

#### ARTICLE X DEVELOPMENT GUIDELINES

The following restrictions are imposed upon the Improvements for the benefit of each other Lot and may be enforced by any Owner and the Declarant:

Section 1. Setbacks. All buildings on Lots shall be set back from the street or public right-of-way at the front of the building, from any side yard property line and from any rear yard property line the distances as required by the applicable zoning ordinances.

Section 2. Minimum Structure Size. The main residential structure on any Lot within Serenity Village shall contain at least twenty-four hundred (2,400) square feet of floor space for one (1) story residences and at least twenty-six hundred (2,600) square feet of floor space for two (2) story residences. Such calculation of heated living space shall be exclusive of porches, basements and garages.

Section 3. Subdivision. No Owner other than Declarant shall subdivide a Lot without the prior written approval of the Committee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. Every Owner, by acquiring its interest in any Lot, agrees that it will not bring any action or suit, except with the written approval of the Declarant, its successors or assigns, to change the zoning of any portion of the Property.

Section 4. Parking. No Owner or Occupant shall park his or her car or other motor vehicle on any portion of the Lot, other than in the garage, unless the maximum number of cars or similarly sized motor vehicles which can be parked in the garage according to its design capacity are already parked in said garage. Garage doors shall remain closed at all times, except for necessary use, ingress and egress. All garages shall be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible. Vehicles shall be subject to such reasonable rules and

regulations as the Board may adopt. No parking shall be permitted on any street, except for temporary visitor parking. All parking areas shall be paved with asphalt or concrete.

Section 5. Exterior Facades. No exterior construction of any building shall be common concrete block unless stuccoed, plastered or veneered to an architectural finish. Asbestos siding shall not be used as an exterior finish. No structural framing or subwall finish shall be exposed to the exterior of any building. The exterior surfaces of all dwellings on Lots and any permitted accessory building structures shall be brick or masonry stucco. Notwithstanding anything to the contrary contained herein, all buildings and other structures on a Lot shall be of similar and compatible designs and materials approved in writing by the Declarant, its designee or the Committee.

Section 6. Screening.

(a) Trash containers, propane tanks, compressors and other equipment shall be visually screened or placed in the rear yard so as to be not visible from the street.

(b) Any ground mounted antenna or receiving dishes (which must have been approved by the Committee) must be in rear yards and screened from vision from the street.

(c) Any such screening must be approved by the Committee.

Section 7. Fences and Walls. No fence or fencing type barrier of any kind or wall of any kind shall be erected, allowed, maintained or altered upon any Lot without the prior written approval of the Committee of Plans and specifications for such fences and walls upon any Lot; provided, however, the Declarant and the Association may erect any type of fence on the Common Areas or elsewhere in the Property as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for health and safety of Owners and Occupants. Guidelines detailing acceptable fence styles or specifications may be issued by the Committee. In no event will a fence or fencing type barrier of any kind be placed, erected, allowed or maintained upon any front yard of a Lot.

Section 8. Utilities. All utilities shall be installed underground so as to not be visible from the street or from any building. All street lights shall be uniform throughout the Property.

Section 9. Landscaping.

(a) The entire area of any Lot containing a building site, including the area between the Lot line and street pavement, shall be landscaped except for those areas covered by the building and paved areas.

(b) Planting beds shall be mulched with pine straw, cypress mulch or bark and maintained weed free and in an orderly appearance.

(c) Ditches and swales shall have a minimum side slope of one foot (1') vertical to three feet (3') horizontal, shall be grassed or otherwise landscaped and subjected to regular maintenance.

(d) All landscaping shall be installed within sixty days (60) of the occupancy or substantial completion, as determined by the Committee, of a building, whichever occurs first.

(e) All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

(f) Each front and side yard area of each Lot shall be sodded and shall have an underground irrigation system serving same.

Section 10. Signage. No portable or temporary signs of any form shall be permitted except for "For Sale" or "For Lease" signs, signs required by legal proceedings or campaign signs (but only for one (1) month immediately preceding any election in which local voters may vote).

Section 11. Completion of Construction. Once building construction has begun it shall proceed in a good and workmanlike manner. Construction of a home on any particular Lot shall be completed within six (6) months from commencement.

Section 12. Garages. Each dwelling to be constructed on a Lot shall contain a three (3) car garage unless the Declarant, its designee or the Committee authorize a variance from compliance with this Development Guideline.

## ARTICLE XI EASEMENTS

Section 1. Easements. Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities (which easements may be dedicated to the appropriate governmental or other entity for permanent maintenance);

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;



(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature; and

(v) So long as Declarant owns any Lot primarily for the purpose of development, Declarant and its successors and assigns as well as its duly authorized contractors, representatives, agents, and employees shall have: (1) an easement for the maintenance of signs, a business, leasing and/or management office, promotional facilities and model residences in the community, together with other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, management, leasing and/or sale of a residence or of the Lot, and (2) a transferable easement on, over, through, under and across the community for the purpose of making improvements in the community or any portion thereof, for the purpose of installing, replacing, repairing and maintaining all utilities serving the community, and for the purpose of doing all things reasonably necessary and proper in connection therewith or as provided herein.

Section 2. Use of Easements. No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Property unless such easement has been assigned by the Declarant to the Association or has been dedicated to a governmental or other entity for permanent maintenance.

## ARTICLE XII ENFORCEMENT

Section 1. General. Declarant, the Committee or any Owner or Occupant may proceed at law or in equity to prevent the violation of any term or provision of this Declaration.

Section 2. Declarant's and/or Association's Rights. Declarant and the Committee or the duly authorized representatives of the Association shall have the right, upon reasonable notice, at any time and from time to time following violation or breach of this Declaration, without any liability to the Owner or Occupant for trespass or otherwise, to enter upon the Lot as to which said violation or breach exists. Once upon said Lot, they shall have the right to abate and remove, at the expense of the Owner, any structure, thing or condition that may be or exists thereon contrary to the intent and meaning of this Declaration or to prosecute a proceeding at law or in equity against the Person or Persons who have violated or are attempting to violate any of the restrictions or terms of this Declaration. Should the Association or Declarant employ legal counsel to enforce any terms of this Declaration, all costs incurred in such enforcement, including reasonable attorneys' fees, shall be paid by the violating Owner. Each Owner shall be responsible for the conduct of the Occupants of its Lot, but the responsibility of an Owner shall not relieve any such Occupant from any liability to Declarant, the Association or any other Owner.

Section 3. Other Parties' Rights. In addition, any other party to whose benefit this Declaration inures shall have the right in the event of violation or breach of the Declaration to prosecute a proceeding at law or in equity against the Person or Persons who have violated or are attempting to violate the Declaration and to enjoin and prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

Section 4. No Waiver. No delay or failure on the part of any aggrieved party to invoke any available remedy in respect to a violation of any of the terms of this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to it upon recurrence or continuance of said violation or the occurrence of a different violation, nor shall there be construed upon Declarant a duty to take any action to enforce the Declaration.

## ARTICLE XIII AMENDMENTS

Section 1. Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Board or the Association or during such time as the Association has not yet been formed, Declarant may amend this Declaration by an instrument in writing filed and recorded in the records of the Superior Court of DeKalb County, Georgia, without the approval of any Member or Owner of any portion of the Property. Provided, however, that in the event the Association has been formed and in the event that such amendment materially alters or changes any right or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by two-thirds (2/3) of the number of the then existing Members or Owners affected thereby. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this section and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Property: (i) If such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or ordinance or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lot subject to this Declaration, (iii) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration or (iv) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, Fannie Mae or Freddie Mac, to enable such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration.

Section 2. Amendments by Association. Once the Association has been formed, amendments to this Declaration, other than those authorized by Section 1 of this Article, shall be proposed and adopted by giving notice of the proposed amendment in the notice of the meeting of the Association at which such proposal may be considered to each Member. At such meeting, such amendment may be adopted by a vote of at least two-thirds (2/3) of the total votes in the Association and the vote of Declarant so long as Declarant still owns any Lot primarily for the purpose of sale of that Lot. Provided, however, (i) that any amendment which materially and adversely affects the security title and interest of a Mortgagee must be approved by such Mortgagee and (ii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must also be approved by Declarant. Any such amendment shall be effected by an instrument recorded in the records of DeKalb County, Georgia.

#### ARTICLE XIV MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the subdivision. The provisions of this Article apply to both this Declaration and to the By-laws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. As institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within 60 days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 2. No Priority. No provision of this Declaration or the By-laws has been or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such holder of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. VA/HUD Approval. As long as the Declarant has the right to appoint and remove the directors of the Association, the following actions shall require the prior approval of the VA, so long as the VA is guaranteeing any Mortgage in the subdivision, and HUD, so long as HUD is insuring any Mortgage in the subdivision, annexation of additional property to the Declaration, dedication of Common Area to any public entity; mergers and consolidations; dissolution of the Association; and material amendment of the Declaration, By-laws or Articles of Incorporation of the Association.

Section 5. Control. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-laws, or Georgia law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days after the date mortgagee receives notice of the proposed amendment sent by certified mail return receipt requested.

Section 7. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

#### ARTICLE XV GENERAL PROVISIONS

Section 1. Coverage. The restrictions and this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association, Declarant or by the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

Section 2. Compliance. Each Owner shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration, and the By-laws and rules and regulations of the Association now or hereafter adopted, as the same may be lawfully amended from time to time.

Section 3. Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Property and shall inure to the benefit of and shall be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, if and to the extent that, Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be (a) automatically extended for successive periods of twenty (20) years (or the maximum period allowed by Georgia law, if less), unless a written instrument signed by the then Owners of at least two-thirds (2/3) of the Lots as been recorded within the two (2) years immediately preceding the beginning of a twenty (20) year renewal period agreeing to terminate the same; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

Section 4. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 5. Governing Law. The interpretation of this Declaration shall be governed by and construed in accordance with the laws of the State of Georgia.

Section 6. Time. Time is of the essence of this Declaration.

Section 7. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given an interpretation or construction which, in the opinion of the Declarant or the Board, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted, and if necessary, shall be so extended or enlarged by implication as to make them fully effective. In the event of any conflicts or inconsistencies between the Georgia Non-Profit Corporation Code, The Act, this Declaration, or the Articles of Incorporation or the By-laws of the Association, the terms and provisions of the Georgia Non-Profit Corporation Code as may be applicable, the Act, this Declaration, the Articles of Incorporation or the By-laws, in that order shall prevail. The singular whenever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

#### ARTICLE XVI GEORGIA PROPERTY OWNERS ASSOCIATION ACT

Section 1. Applicability of this Article: The provisions of this Article XVI shall be of no force or effect until the first of the following events shall occur: (i) the expiration of twenty (20) years after the date of recording of this Declaration; (ii) the date upon which seventy-five percent (75%) of all Lots submitted or proposed to be submitted to this Declaration have been conveyed to Persons other than builders or developers who have not purchased such Lots for the purpose of construction of a residence and resale, unless the Declarant has an unexpired option to annex additional property; or (iii) the recording of an Amendment to this Declaration executed by Declarant expressly stating that this Paragraph shall be effective.

Section 2. Submission to Act: From and after the date this Paragraph shall become effective pursuant to the provisions of paragraph (a) above and provided that the Board has elected to submit the Property to the provisions of the Georgia Property Owners Association Act, Official Code of Georgia Annotated § 44-3-220, *et seq.*, as now or hereafter amended (hereinafter referred to as the "Act"), by filing an amendment to this Declaration, then the Property, the Association, all Lots in the development, and all Owners and Mortgagees shall thereafter be subject to the Act. Thereafter, the Association, and all Owners and Mortgagees shall be entitled to the benefits and subject to the provisions of the Act.

Section 3. Conflicts: From and after the date this Paragraph becomes effective pursuant to the provisions of Subparagraph (a) above, in the event of any conflicts between the Act, or any of the provisions of this Declaration, the Articles of Incorporation of the Association, or the By-laws of the Association, the provisions of the Act shall govern and control.

#### ARTICLE XVII ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Unilateral Annexation By Declarant.

- (a) Declarant may, from time to time, subject to the provisions of this Declaration, annex all or any portion of the property described in Exhibit "B" by recording a Supplementary Declaration describing the additional property to be subjected. A Supplementary Declaration recorded pursuant to this Section shall not require the consent of any Person, except the owner of such property if other than Declarant.

Declarant's right to expand the Property pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or five (5) years after this Declaration is recorded, whichever is earlier. Until then, Declarant may transfer or assign

this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B". Any transfer shall be memorialized in a deed executed by Declarant.

- (b) The rights reserved unto Declarant to subject additional land to the Declaration shall not impose any obligation upon Declarant to subject any of such additional land to this Declaration or the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent Owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 2. Other Annexation. Subject to the consent of the Owner(s) thereof and the consent of Declarant (so long as Declarant owns a Lot in the Property or has the right to unilaterally annex additional land to the Property), upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this Declaration provided that the property to be annexed is described in a Supplementary Declaration which shall be signed by the Association's President whose signature shall be attested by the Association's Secretary, and any such annexation shall be effective only upon the recording of such Supplementary Declaration, unless a later effective date is provided herein.

Section 3. Withdrawal. Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property, for the purpose of removing any portion of the Property which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Lots then subject to the Declaration by more than ten percent (10%). Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

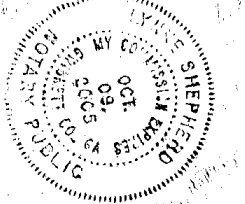
IN WITNESS WHEREOF, Declarant has set its hand and seal to this Declaration the date set forth above.

Signed, sealed and delivered  
this 1st day of April,  
2004, in the presence of:

*[Signature]*  
Witness

*[Signature]*  
Notary Public

[NOTARIAL SEAL]



SERENITY VILLAGE SUBDIVISION, INC., a Georgia corporation

By: *[Signature]*  
James A. Fletcher, President

By: *[Signature]*  
Charlene A. Fletcher, Secretary

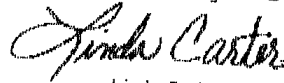
[CORPORATE SEAL]

EXHIBIT "A"**Legal Description of Submitted Property**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING in Land Lots 84 and 89 of the 16<sup>th</sup> District, DeKalb County, Georgia, said tract or parcel being more particularly described as follows:

Commencing at the intersection of Rockland Road (Variable R/W) and North Goddard Road (60' R/W), thence leaving North Goddard Road along the southern right of way of Rockland Road South 53°01'17" West a distance of 60.48 feet; thence continuing along said right of way South 53°11'03" West a distance of 58.42 feet; thence South 54°11'30" West a distance of 48.25 feet; thence South 55°17'39" West a distance of 63.65 feet; thence South 50°15'31" West a distance of 60.18 feet; thence South 58°59'42" West a distance of 19.70 feet; thence along a curve to the right having an arc length of 95.68 feet with a radius of 1,653.60 feet with a chord distance of 95.55 feet and a chord bearing of South 57°57'22" West to a point on the southern right of way of Rockland Road, said point being the POINT OF BEGINNING; thence leaving said right of way South 00°57'58" East a distance of 178.15 feet; thence South 18°30'22" West a distance of 54.70 feet; thence South 03°03'09" East a distance of 119.95 feet; thence South 24°58'11" East a distance of 107.79; thence North 86°58'51" East a distance of 216.73 feet; thence South 07°31'02" East a distance of 11.82 feet; thence South 09°43'24" East a distance of 184.22; thence South 16°36'07" West a distance of 343.39 feet; thence South 12°09'28" West a distance of 145.92 feet; thence South 21°33'54" West a distance of 158.08 feet; thence South 07°12'57" East a distance of 127.02 feet; thence North 88°37'38" West a distance of 619.42 feet; thence North 12°29'23" East a distance of 588.84 feet; thence South 77°30'37" East a distance of 300.00 feet; thence North 12°29'23" East a distance of 210.00 feet; thence North 77°30'37" West a distance of 280.00 feet; thence North 12°29'23" East a distance of 243.62 feet; thence South 77°30'43" East a distance of 135.67 feet; thence North 18°30'22" East a distance of 217.45 feet; thence North 00°57'58" West a distance of 131.36 feet to a point on the southern right of way of Rockland Road; thence along a curve to the left following said right of way of Rockland Road having an arc length of 68.11 feet with a radius of 1,653.60 feet with a chord distance of 68.11 feet and a chord bearing of North 60°47'38" East to a point, said point being the POINT OF BEGINNING.

Deed Book 16209 Pg 17



Linda Carter  
Clerk of Superior Court DeKalb Cty, Ga.  
I AM NOT THE ONE TO SIGN THE DEED FOR THIS PROPERTY. I AM ONLY THE CLERK OF SUPERIOR COURT.

EXHIBIT "B"

**(Property Which May Be Subjected to this Declaration)**

Any tract or parcel of land adjacent to property described on Exhibit "A" which may be acquired or annexed for future development as part of Serenity Village by the Declarant.