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OCONEE COUNTY, GEORGIA

STATE OF GEORGIA

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COUNTY OF OCONEE

REC. BOOK 591 PAGE 98-123

RETURN TO:  
DONALD W. HANSFORD, PC  
P.O. BOX 1376  
WATKINSVILLE, GA 30677

**DECLARATION OF RESTRICTIONS AND COVENANTS**

DATE 4-16-02  
ANGELA WATSON, CLERK

BOULDER SPRINGS SUBDIVISION  
OCONEE COUNTY, GEORGIA

THIS DECLARATION, made on the date hereinafter set forth by Boulder Springs Development, LLC of Oconee County, Georgia (hereinafter sometimes called "Declarant").

**RECITALS:**

Declarant is the owner of the real property referenced in Section 1 of Article II of this Declaration and described in Exhibit "A" attached hereto.

Declarant desires to subject the real property described in Exhibit "A" to the provisions of Declaration, and to avail the Community of the provisions and benefits of the Georgia Property Owner's Association Act codified at O.C.G.A §44-3-220, et seq.;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" to this Declaration, including the improvements constructed thereon, be subjected to this Declaration, is hereby subject to the provisions of this Declaration, and the provisions of O.C.G.A §44-3-220, et seq. and shall be held, sold, transferred, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the covenants and restrictions (sometimes referred to herein collectively as "covenants and restrictions") hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to the real property hereby made subject hereto, and shall be binding on all persons having any right, title or interest in all or any portion of the real property now made subject hereto, their respective heirs, legal representative, successors, successors in title and assigns, and shall inure to the benefit of each and every owner of all of any portion thereof.

**ARTICLE I**

**DEFINITIONS**

- A. "The Act" shall mean the Georgia Property Owners Association Act, O.C.G.A §44-3-220, et seq. as the same is or may be hereinafter amended.
- B. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee initially comprised of Declarant and such other individuals or entities as Declarant may appoint and thereafter those persons selected by the Board of Directors in compliance with the provisions of this Declaration.
- C. "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be hereinafter amended.

- D. "Association" shall mean and refer to the Bouldersprings Homeowners Association, Inc. a non-profit Georgia corporation, its successors and assigns, or to a Limited Liability Corporation or other organization as declarant may determine.
- E. "Board of Directors" shall mean the Board of Directors of the Association, the members of which shall be appointed and elected from time to time as provided in this Declaration, the Articles of Incorporation and the By-Laws. The Board of Directors shall be the governing body of the Association.
- F. "By-Laws" shall mean the By-Laws of the Association, as the same may be hereafter amended.
- G. "Common Area" means all real and personal property submitted to the Declaration which is owned or leased by the Association for the common use and enjoyment of the members.
- H. "Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Association together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of the Declaration.
- I. "Community" shall mean and refer to that certain real property described in Exhibit "A" attached hereto.
- J. "Declarant" shall mean and refer to (i) Boulder Springs Development, LLC or (ii) any successor-in-title to the said party to all or some portion of the Community, provided such successor-in-title shall acquire such Community for the purpose of development or sale, and provided further, in the instrument of conveyance to any such successor-in-title such successor-in-title is expressly designated as the "Declarant" hereunder at the time of such conveyance; or (iii) should any of the Community become subject to a first mortgage given by "Declarant" as security for the repayment of a construction, development acquisition or other loan, then all the rights, privileges and options herein reserved to "Declarant" shall inure to the benefit of the holder of such mortgage upon its becoming the owner of all the Community then subject thereto through whatever means, or the purchaser of all such Community at the judicial or foreclosure sale made under any power of sale contained in such mortgage; and further, all the rights, privileges and options herein reserved to "Declarant" may be transferred to the successor-in-title of any such acquirer of title to such Community provided any such successor-in-title shall acquire for the purpose of development or sale all or some portion of such Community, and provided further, in the instrument of conveyance to such successor-in-title, such successor-in-title is designated as the "Declarant" hereunder. The privileges and options herein reserved to "Declarant" may be transferred to the successor-in-title of any such acquirer of title to such Community provided any such successor-in-title shall acquire for the purpose of development or sale all or some portion of such Community and provided further in the instrument of conveyance to such successor-in-title, such successor-in-title

is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor of such conveyance shall be the "Declarant" hereunder at the time of such conveyance.

- K. "Declaration" means this recordable instrument creating covenants upon property which covenants are administered by a property owners' association in which membership is mandatory for all owners or lots in the community.
- L. "Lot" shall mean any plot of land located within the Community which constitutes a single dwelling site designated on any plat of survey recorded in the Office of the Clerk of Superior Court of Oconee County, Georgia, as well as any building or any portion of any building located thereon which is intended for independent residential use.
- M. "Lot Owner" or "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot located within the Community, excluding, however, any person holding such interest merely as security for the performance or satisfaction of any obligation.
- N. "Mortgage" means any mortgage, deed to secure debt, security deed and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.
- O. "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONAL PROPERTY

Section 1. Property Subject to Declaration. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration is the real property described as the Community in Article I hereof. Declarant intends to construct eighty six (86) lots in the Community, together with roads, utility systems and other improvements serving the lots. Further, Declarant intends to construct amenities for the benefit of the community, including picnic areas, playgrounds, swimming pool, tennis courts and nature trails in the common and easement area as shown on the plat of subdivision, said amenities to include landscape buffers between the common areas and adjoining lots as required. On or before the date of conveyance of the last Lot in the Community by Declarant to an Owner, Declarant shall convey all common areas as shown on the plat of subdivision to the Association as common green space or amenity areas for the enjoyment, benefit, and use of Lot Owners in the Community, who are in good standing in the association and have paid all dues, fees or assessments.

Section 2. Lots and Other Interests Subject to Plan of Development. Every purchaser of a Lot shall purchase such Lot and every mortgagee and lien holder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Declarant's plan of development as herein set forth. Any provision of this Declaration to the contrary notwithstanding, the provisions of this the foregoing plan of development set forth in this Article II may not be abrogated, modified, rescinded, supplemented or amended in whole or in part without the written consent of Declarant

### ARTICLE III

#### POWERS OF THE ASSOCIATION AND BOARD OF DIRECTORS

The powers of the Association and the Board of Directors shall be as set forth and shall be subject to the limitations and restrictions set forth in the Act, the Georgia Non-Profit Corporation Act, the Limited Liability Corporation Act, this Declaration, the Articles of Incorporation and the By-Laws of the Association.

### ARTICLE IV

#### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Purpose. Powers and Duties of the Architectural Control Committee. The purpose of the Architectural Control Committee is (a) to administer and enforce the covenants and restrictions set forth in this Declaration; and (b) to assure the installation, construction or alteration of any structure on any Lot is submitted to the Architectural Control Committee for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with existing standards of the neighborhood and with the standards of the development of the Community; and (ii) as to the location of structures with respect to topography, finished ground elevation and surrounding structures.

#### Section 2. Selection of the Architectural Control Committee

(a) Initial Architectural Control Committee From the execution date of this Declaration until such time as all Lots have been fully developed, permanently improved, and sold to permanent residents, the Architectural Control committee shall consist of the Declarant, or such persons as may be appointed by declarant. Upon the sale by Declarant to an Owner of the last Lot and the construction and completion of a permanent residence thereon, the Declarant, and its appointees, if any, shall cease functioning as the Architectural Control Committee in all respects and a successor Architectural Control Committee shall be appointed by the Board of Directors. However, The Declarant may at any time prior thereto resign from the Architectural Control Committee, turning its functions over to the Board of Directors of the Association.

Section 3. Meetings. The Architectural Control Committee shall hold such meetings as required or allowed for the Board of Directors by the By-Laws.

Section 4. Action of Members of Architectural Control Committee. Any member of the Architectural Control Committee may be authorized by the Architectural Control Committee to exercise the full authority of the Architectural Control Committee with respect to all matters over which the Architectural Control Committee has authority as may be specified by resolution of

the Architectural Control Committee. The action of such member with respect to the matters specified shall be final and binding upon the Architectural Control Committee and upon any applicant for an approval permit or authorization, subject, however, to review and modification by the Architectural Control Committee on its own motion or appeal by the applicant to the Architectural Control Committee as provided herein. Written notice of the decision of such member shall within five (5) days thereof, be given to any applicant for an approval permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision, which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the full Architectural Control Committee. Upon the filing of any such request, the matter with respect to which the request was filed shall be submitted to, and reviewed promptly by, the full Architectural Control Committee, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the Architectural Control Committee with respect to such matter shall be final and binding.

## ARTICLE V

### **BUILDING REQUIREMENTS**

The following property rights and architectural restrictions shall apply to the property which is subjected to this Declaration.

Section 1. Subdivision of Lot. No Lot shall be subdivided, or its boundary lines changed, except with the prior written approval of the Architectural Control Committee, Declarant, however, until such time as the last Lot is sold by the Declarant to an owner, hereby expressly reserves the right to replat any Lot or Lots in order to create a modified residential Lot or Lots and to take such other steps as reasonably may be necessary to make such replatted Lot or Lots suitable as a building site or sites. All of the covenants and restrictions set forth herein shall apply to each such Lot, if any, so created. Any such division, boundary line change or replatted Lot shall not be in violation of the applicable County subdivision and zoning regulations.

Section 2. Approval of Plans. No residence, building, fence, wall, road driveway, sidewalk, parking area, tennis court, swimming pool, or other structure or improvement of any kind shall be erected, placed, altered, added to, modified, maintained or reconstructed on any Lot until the plans therefore, and for the proposed location thereof upon the Lot, shall have been approved in writing by the Architectural Control Committee. "Improvement" shall mean and include any improvement, change or modification of the appearance of a Lot from the state existing on the date of the conveyance of such Lot by Declarant to a Lot Owner. Before taking any action requiring approval under this Section, a Lot Owner shall submit to the Architectural Control Committee a construction schedule and two (2) complete sets of final plans and outline of specifications, showing site plan (which site plan shall show driveways, patios, decks, accessory buildings, and all other components referenced in the first sentence of this Section), landscape layout, floor plans, exterior elevations and exterior materials, colors and finishes. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written approval by the Architectural Control Committee. No alteration in the exterior appearance of any building, structure or other improvement shall be made without like approval by the Architectural Control Committee. Further, before beginning any construction, the name of the builder must be submitted to the Architectural Control Committee and approval by the

Architectural Control Committee as to the builder's experience and ability to build houses or other structures of the class and type of those which will be built in the community. The Architectural Control Committee shall act in accordance with Article IV, Section 4 upon receipt of such information to approve or disapprove the same. Neither the Architectural Control Committee, nor any person or party to whom the Architectural Control Committee shall assign such function, shall be responsible or liable in any way for the performance of any builder or for any defects in any plans or specifications approved in accordance with the foregoing, nor for any structural defects in any work done according to such plans and specifications. The Architectural Control Committee may refuse approval of plans, sitting or specifications upon any ground, including purely aesthetic considerations, which in its sole discretion it shall deem deficient. Approval of any improvement hereunder shall not waive the Architectural Control Committee's right to disapprove subsequent improvements to the same Lot.

Section 3. Building Location. No building shall be erected on any Lot closer to the front lot line closer than 40 feet. The front lot line is 13 feet from the curb. No buildings, accessory buildings or detached garages may be located closer than 16 feet from any side line or closer to the rear property line than 40 feet. Accessory buildings shall only be located in the rear yard, behind the rear wall of the main dwelling and shielded from view from all streets and adjacent dwellings by shrubbery, trees or fences.

The Architectural Control Committee reserves the right to control solely and absolutely the precise site and location of any proposed house, dwelling, building, or improvement upon all Lots. Such location shall be determined however, only after reasonable opportunity is afforded the Lot Owner to request a specific site. No improvements shall be placed or erected within any such building setback areas required by the Architectural Control Committee or designated on plat of subdivision. No dwelling, or part thereof, garage, outbuilding of any nature, pet facilities or any improvements shall be located in any buffer or easement as shown on the final subdivision plat.

Section 4 Garages, Carports. All garages will be required to open to the rear or the side of the Lot, whether attached to the dwelling or detached. No carports, attached or freestanding shall be permitted. All dwellings shall have a garage, which shall have garage doors. Corner lot garages may face the side street, but shall be approved by the Architectural Control Committee.

Section 5. Attachments of Utilities. No permanent utility connections shall be made to any dwelling or other structure by any utility, public or private, until the Architectural Control Committee has verified general compliance with these covenants and restrictions and with the plans and specifications therefore submitted pursuant to Section 2 above, and has approved said utility connections in writing. Each Lot, parcel of land, residence, building or other structure on said property, when required to be served by a utility, must be served by utilities approved by the Architectural Control Committee. The Architectural Control Committee may, in it's discretion, waive utility connection approvals.

Section 6. Other Building Requirements. The requirements set forth below are in no way to be construed as limiting the exercise of the Architectural Control Committee's discretion pursuant to Section 2 and 3 above:

(a) All residences in Boulder Springs subdivision shall contain a minimum of 2200 square feet of heated living space for a one story home and 2400 square feet of living space

for a 1 and 1/2 or 2 story home, all excluding garages, porch's, terraces and basements Owners may request, in writing to the Architectural Control Committee, a waiver of this requirement. The Architectural Control Committee may, under reasonable circumstances, grant such a request where the resulting appearance of the Lot is likely to preserve the overall appearance, scheme, and design of the Community.

(b) Each residence shall be brick veneer or rock construction on the front and 2 sides and on all foundation walls\*. Wood siding or equivalent material may be used on gables and rear areas of the structure. Hard coat stucco may be used in certain accent areas such as gables, chimneys, etc., with written Architectural Control Committee approval. No exposed concrete block is permitted. Aluminum or vinyl siding or equivalent is not permitted. All roofs shall be minimum 25 year architectural shingle. Chimney Bonnets or decorative spark arresters are required. Exterior shutters shall be used where windows face the street. Gutters shall be used at appropriate locations on the dwelling.

\* Including all exterior basement walls.

(c) Driveways shall be a minimum of eleven feet In width and shall be constructed only of concrete or other materials approved in writing by the Architectural Control Committee and any culverts, pipes or conduits for water placed in or under driveways shall be covered at points of protrusion from driveways or the ground with materials approved by the Architectural Control Committee.

(d) The exterior of all residences and other structures must be completed within nine months after commencement of construction and the landscaping on such Lots must be completed within 60 days thereafter, except, in each case, where, in the sole discretion of the Architectural Control Committee such completion is not possible or would result in greater hardship to the Owner or Builder due to strike, fire, national emergency or natural calamity.

(e) No exterior pole, tower, satellite dish, antenna or other device for the reception of television signals, radio signals or any other form of electromagnetic radiation, or for any other purpose, shall be erected, placed or maintained on any Lot except as may be constructed by the Declarant or approved in writing by the Architectural Control Committee\*. Further, the design type, location, size, color, and intensity of all exterior lights shall be subject to control by the Architectural Control Committee and only such exterior lighting as shall have been approved in writing by the Architectural Control Committee shall be installed or used on any Lot. No such pole, tower, satellite dish, antenna or other device for transmission or reception of television, radio signals or any other device as described above shall be visible from the street in front of the property. All exterior lighting shall be covered or shielded in such manner that it does not shine on the adjacent owner's property. Glass in such exterior fixtures shall be opaque or tinted.

\*No satellite dish, antenna or other such device shall be attached to the front or either side of a house, but only on the rear of the structure including the roof area, and shall not be visible from the street

(f) Mechanical equipment (other than heating or air conditioning equipment), shall be installed only within the main dwelling or buried. Heating and air conditioning equipment shall

be installed in such locations as will, to the maximum extent possible, not be readily visible to the view of neighboring Lots, streets and property located adjacent to the Community. No outdoor clotheslines shall be allowed in the Community

(g) Unless located within 15 feet of a main dwelling, or accessory building or within 15 feet of an approved building site, no trees, shrubs, bushes or other vegetation having a trunk diameter of six (6) inches or more at a point two (2) feet above ground level may be cut, pruned, mutilated or destroyed at any time without the prior written approval of the Architectural Control Committee; provided, however, that dead or diseased trees, shrubs, bushes or other vegetation shall be cut and removed promptly from any Lot by the Owner thereof after such dead or diseased condition is first brought to the attention of the Architectural Control Committee and permission for such cutting and removal has been obtained.

(h) No structure of a temporary character shall be placed upon any Lot at any time, except for shelters used by a building contractor during the course of construction. Such temporary shelters may not, at any time, be used as residences, nor be permitted to remain on the lot after completion of construction.

(i) No accessory building or outbuilding shall be placed, erected or maintained upon any part of any Lot except in connection with a residence already constructed or under construction at the time that such outbuilding is placed or erected upon that Lot. Such building shall be of the same colors and materials as the residence thereon, including roof shingles and siding materials. Metal sheds are prohibited.

(j) No camper, recreational vehicle, trailer, tent, boat, treehouse, play equipment (such as swing set) or other similar items shall be placed in the front yard so as to be visible from any public right of way, or adjacent homes, or if visible from adjacent property shall be screened with trees and/or shrub.

(k) Only ornamental fences and walls conforming architecturally to the principal dwelling on said Lot shall be constructed in the front yard. No Fence shall be built between the front wall of the house and the street which the dwelling faces. Any portion of a fence on the sides of a dwelling facing the street shall be either ornamental iron or decorative wood conforming to the architectural design of the principal dwelling on said lot Fences running in back of the principal dwelling may be chain link but shall be either green or black in color.

(l) Swimming pools must be constructed below ground level with the same setback requirements as dwellings and other improvements. A fence at least six (6) feet height and capable of being locked shall surround all swimming pools.

(m) All front yards must be landscaped with grass and other natural plantings and the Architectural Control Committee must approve all landscape plans for front yards. All grass in front yards shall be Bermuda sod unless otherwise approved by the Architectural control Committee. All buildings / homes must have foundation plantings in the front of the building and irrigation system for the front yard area.



Section 7. Sight Distance at Intersection. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot which is within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight lines.

Section 8. Right of Inspection. The Architectural Control Committee, its agents and representatives, shall have the right during reasonable hours to enter upon and inspect any Lot and improvement thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any improvement of the use of any Lot or improvement is in compliance with the provisions of this Declaration; and the Architectural Control Committee shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection.

Section 9. Violation. If any improvement shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Declaration; such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the Architectural Control Committee such violation shall have occurred, the Architectural Control Committee shall be entitled and empowered to enjoin or remove any such construction, and take any other action permitted by the By-Laws of the Association. Any costs and expenses incurred by the Architectural Control Committee in enjoining and removing any construction or improvements shall become lien against the Owner's Lot in accordance with Article VIII. Additionally, the Architectural Control Committee shall be entitled to pursue all legal and equitable remedies.

Section 10. Fees. The Architectural Control Committee may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to Section 7 hereof, which such fee will be paid out of regular or special assessments established per Article VII hereof. The fee shall be established from time to time by the Architectural Control Committee.

## ARTICLE VI

### USE RESTRICTIONS

Section 1. Residential Use. All Lots shall be used for single-family residential purposes exclusively. Except as hereinafter provided, no house, structure or other improvement shall be erected, altered, placed, maintained or permitted to remain on any Lot other than one (1) detached single-family dwelling. No business or business activity shall be carried on or upon any Lot at any time except with the written approval of the Architectural Control Committee. Nothing contained herein shall prohibit Declarant from using any Lot owned by Declarant for the purpose of carrying on business related to the development and management of the Community.

Section 2. Signs. No commercial signs, including "for rent" or "for sale" signs or advertising posters of any kind shall be erected, placed or maintained on any Lot except as may be required by legal proceedings. Nothing herein shall be construed, however, to prevent Declarant from erecting, placing or maintaining upon any Lot, or permitting the erection, placing or maintaining upon any Lot by builders or residents, of such signs as Declarant may deem necessary or desirable during the period of the development, construction, and sale of the Lots and residences constructed thereon. Also, the provisions of this Section shall not apply to any mortgagee who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first mortgage or deed to secure debt or as transferee pursuant to any proceeding in lieu thereof.

Section 3. Mail Boxes. Property Identification Markers and Decorative Hardware. The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of mail and newspaper boxes, if any, and of name signs on such boxes, as well as property identification markers and decorative hardware, whether attached to such main-box, to any structure within the Lot or affixed or erected upon the grounds of the Lot.

Section 4. Garbage Cans. Woodpiles, etc. All garbage cans, woodpiles, etc. shall be located on screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Community. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

Section 5. Prohibited Structures. No mobile home, house trailer, factory or manufacturer assembled homes, modular homes, tent, shack, barn, or other outbuilding or structure (except accessory buildings otherwise permitted hereunder) shall be placed on any Lot at any time, either temporarily or permanently; provided however, house trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of residences or as one or more real estate sales offices of Declarant for the sale of property.

Section 6. Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in reasonable number, provided that said pets are not kept, bred or maintained for any commercial purpose, are not permitted to roam free, and in the sole discretion of the Board of Directors, do not endanger the health, make objectionable noise or constitute a nuisance or inconvenience to the Owners of other Lots or the owner or any property located adjacent to the Community. Dogs which are household pets shall at all times, whenever they are outside a dwelling, be confined within a pen or on a leash. No structure for the care, housing, or confinement of any pets shall be maintained so as to be visible from neighboring property.

Section 7. Incapacitated Motor Vehicles. No automobile or motor driven vehicle may be left upon any Lot for a period longer than five (5) days in a condition such that it is incapable of being operated upon the public highways. After such five (5) day period, such vehicle shall be considered a nuisance and detrimental to the welfare of the neighborhood and must be removed from the Community. Any towed vehicle, boat, motor home or mobile home regularly stored upon any Lot, or temporarily kept thereon for periods longer than twenty-four (24) hours each, shall be considered a nuisance and must be removed from the Community. The foregoing,

however, does not apply to such boats or other vehicles, whether motor-driven or towed, as are stored wholly within a private garage or trailer storage areas, if any, designated by Declarant or the Architectural Control Committee. No commercial vehicles may be parked, stored or temporarily kept within the Community, unless such vehicles are stored wholly within private garages, are within the Community temporarily to service existing improvements or are used in connection with the construction of improvements within the Community.

Section 8. Nuisance. It shall be the responsibility of each Lot Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of buildings or grounds on his or her Lot or Lots. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of property in the neighborhood by the Owners thereof.

Section 9. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

## ARTICLE VII

### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot in the Community shall be a member of the Association. If title to a Lot is held by more than one person, each of such persons shall be members. Membership shall be appurtenant to the Lot to which it appertains and shall be transferred automatically. Notwithstanding the above, each Lot shall be entitled to one (1) vote in the Association. Each lot owner shall be required to pay the Association assessment annually, or as required by the Association, as set out in Article VIII.

Section 2. Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation and By-Laws of the Association provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners of Lots as set forth herein. In the event of any conflict or inconsistencies among this Declaration, the Articles of Incorporation or the By-Laws of the Association, this Declaration and the Articles of Incorporation (in that order) shall prevail.

ARTICLE VIII

ASSESSMENTS

Section 1. Assessments against the Lot Owners shall be made to raise funds to pay the common expenses of the Property, and contribute a pro rata share of the maintenance of the common areas of the Community and shall be governed by the following provisions:

(a) Liability. Each Lot Owner shall be liable to the Association for all sums as are lawfully assessed by the Association against him or his Lot or Lots in accordance with the terms and provisions of this Declaration and the Articles of Incorporation and Bylaws. In addition to exercising the remedies provided for herein, the Association may enforce such liability by an action at law to recover all amounts assessed against each unit owner in accordance with the provisions of this Declaration.

(b) Creation of the Lien and Personal Obligation for Assessment. Each owner of any Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association assessment, which shall be fixed, established, and collected as herein provided-

(c) Uniform Rate of Assessment. All annual assessments shall be fixed at a uniform rate for all Lots except as follows:

(i) Any common expenses benefiting less than all of the Lots may be specially assessed equitably among all of the Lots so benefited, as determined by the Board;

(ii) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensee's or invitees of any such Lot or Lots may be specially assessed against the Lot or Lots, the conduct of any occupant, licensee or invitee of which occasioned any such common expenses;

(iii) Any common expenses significantly disproportionately benefiting all of the Lots may be assessed equitably among all of the Lots in the Community as determined by the Board.

Nothing contained herein shall permit the Association to specially or disproportionately allocate common expenses for periodic maintenance, repair and replacement of any portion of the common area or the Lots which the Association has the obligation to maintain, repair, or replace.

(d) Purpose. Assessments shall be levied against the Lot Owners and the Lots to defray the common expenses of the Property. The common expenses of the Property shall be all of the expenditures which are made or incurred by or on behalf of the Association in connection with the exercise of its powers and responsibilities, and shall include but not be limited to the following:

(i) Management fee, if any, and expenses of administration of the Association;

(ii) common utility bills and charges for other common services, including but not limited to water and power;

(iii) premiums for all insurance policies maintained by the Association;

(iv) the expenses of performing the maintenance, repair, renovation, restoration and replacement work which is the responsibility of the Association hereunder;

(v) such other costs and expenses as may be determined from time to time by the Board of Directors to be common expenses; and

(vi) the creation and maintenance of such reserve funds as are required to be maintained by the Association under Article VIII herein, and such other reserve funds as the Board of Directors shall determine, including but not limited to a reserve for repairs and maintenance.

(e) Budget. Payment Dates. No less than sixty (60) days prior to the commencement for each fiscal year (January 1) of the Association, the Board of Directors shall adopt a budget of the succeeding fiscal year, which budget (i) shall estimate the amount of common expenses which are anticipated to be incurred during such year, and (ii) shall make provision for an adequate reserve fund for maintenance, repair and replacement of those portions of the common elements that must be replaced on a periodic basis. Prior to the commencement of such fiscal year, the Board of Directors shall furnish a copy of such budget to each Lot owner, together with a written statement of the amount of such common expenses, which shall be assessed against such Lot Owner for such fiscal year. Unless otherwise determined by the Board of Directors, such assessment shall be due on January 1 of each year. The Board of Directors shall be authorized to prorate the annual assessment into twelve monthly or four quarterly installments. In addition, any fees, charges, and other amounts payable by any Lot Owner to the Association shall be added to and shall, unless paid at the time the same are incurred or at some other time determined by the Board of Directors, be due and payable as part of the installment of the assessment next coming due.

(f) Special Assessments. If for any reason, including nonpayment of any Lot Owner's assessments, an annual budget adopted by the Board of Directors for any fiscal year proves inadequate to defray the common expenses for such fiscal year, the Board of Directors may, at any time, levy a special assessment to raise the additional funds necessary to defray such common expenses, which special assessment shall be due and payable at such time and in such installments as the Board of Directors shall determine. Additionally, the Board of Directors shall be authorized to levy special assessments under the circumstance described in this Declaration

(g) Special Assessments for Capital Improvements. In addition to the assessments, which shall be levied against the Lot Owners, the Board of Directors shall be authorized, upon the affirmative vote of 75% of the Lot Owners entitled to cast votes to levy a special assessment for the purpose of defraying, in whole or in part, the costs of any capital improvements to be made upon the common elements, or for the costs of making repairs or replacements which are not provided for in then current budget of the Association. Any such special assessments for the

capital improvements and repairs shall be payable at such time and in such installments as the Board of Directors shall determine.

(h) Collection. In addition to all other remedies provided by law, the Association may enforce collection of the assessments for which a Lot Owner is liable, together with all other amounts as may be owed by such Lot Owner to the Association, as hereinafter provided.

(i) In the event that any Lot Owner shall fail to pay any installment of any assessment levied against him within ten (10) days after such installment shall be due and payable and within five (5) days after written notice is mailed to the Lot Owner, the entire unpaid balance of such assessment for the remainder of the fiscal year may, at the option of the Board of Directors, be accelerated and be declared immediately due and payable in full, without notice to such Lot Owner.

(ii) In the event that any Lot Owner shall fail to pay within five (5) days after the same shall be due, any amounts due and payable to the Association, such Lot Owner shall be liable for the payment of, and shall pay, in addition to the amounts so due the Association:

(a) A late charge equal to Ten (\$10.00) Dollars or ten (10%) percent of the amount so due, whichever is the greater;

(b) interest on the amount so due, and the aforesaid late charge appertaining thereto, from the date same were due and payable, at the rate of ten (10%) percent per annum, until paid;

(c) the cost of collection, including court costs, the expenses of sale, any expenses as required for the protection and preservation of the Lot, and reasonable attorney's fees actually incurred; and

(d) in the event the Association shall seek to foreclose its lien on the Lot of such owner, the fair rental Value of the Lot from the time of the institution of suit until sale of the unit at foreclosure (or until the judgment rendered in such suit is otherwise satisfied).

(iii) All sums lawfully assessed by the Association against any Lot Owner or Property Owner's Association Lot, whether for the share of the common expenses pertaining to that Lot, fines, or otherwise and all reasonable charges made to any Lot Owner or Lot for material furnished or services rendered by the Association at the Owner's request to or on behalf of the Lot Owner or Lot, shall, from the time the sums become due and payable, be the personal obligation of the Lot Owner and constitute a lien in favor of the association on the Lot prior and superior to all other liens whatsoever except:

(a) Liens for ad valorem taxes on the Lot;

(b) The lien of any first priority mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of the Association's lien.

(c) The lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee of the mortgage is the seller of the Lot.

Section 2. The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien for assessment shall be required.

(a) The rights of a Lot Owner and all persons entitled to occupy the Lot of such owner, to use the common elements and amenities shall be suspended for the period of time any amount due and owing to the Association in regard to any Lot owned by such owner shall remain unpaid; provided, however, that no such suspension shall deny any Lot Owner, or the occupants of any Lot, access to the Lot owned or occupied, nor cause any hazardous or unsanitary condition to exist.

(b) Fee for Statements of Amount Due The Association may require the payment of a fee, not to exceed Ten (\$10.00) Dollars as a prerequisite to its issuance of any statement pursuant to the Act or this Declaration.

#### ARTICLE IX

#### INSURANCE

Section 1. Insurance (other than title insurance), which shall be obtained by the Association, shall be governed by the following provisions:

(a) Types of Insurance. The Association shall obtain and maintain the following insurance policies:

(i) A multi-peril casualty insurance policy covering the common elements, providing as a minimum, fire, and extended coverage, vandalism and malicious mischief, on a replacement cost basis in an amount not less than one hundred (100%) percent of the full replacement cost of the common elements within the Community. The name of the insured under such casualty insurance policy shall be stated as follows:

Boulder Springs Homeowners' Association, Inc. for the use and benefit of the individual Lot owner's in Boulder Springs Subdivision, Oconee County, Georgia. The amount of coverage of such casualty insurance policy shall be readjusted by reappraisal or reevaluation of the insured property, not less frequently than once every five years. Such casualty insurance policy shall contain the standard mortgagee clause, which shall be endorsed, to provide that any proceeds shall be paid to the Association for the use and benefit of mortgagees as their interest may appear.

(ii) A comprehensive policy of public liability insurance covering all of the common elements. Such liability insurance policy shall contain a "severability of interest" endorsement, which shall preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or other Lot Owners. Such liability insurance policy shall cover the Association, the Board of Directors, the officers of the Association, all agents and employees of the Association, and all unit owners and other persons entitled to occupy any Lot or other portion of the Property, shall be for at least \$500,000.00 for injury including death to a

single person, \$1,000,000.00 for injury or injuries, including death, arising out of a single occurrence and \$50,000.00 for property damage, with a cross liability endorsement to cover the Lot Owners as a group and shall include protection for damage to the property of others.

(iii) Such other insurance policies as the Board of Directors shall deem desirable for the benefit of the Association its Officers and Directors or the Lot Owners.

(b) Minimum Qualifications of Insurance Carriers. Each policy of insurance which the Association is required to maintain under the provisions of this Declaration shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class A:VI or better and which is licensed to transact business within the State of Georgia.

(c) Minimum Qualifications of Insurance Policies. All policies of insurance which the Association is required to maintain under the provisions of this Declaration shall (a) not allow contributions or assessments to be made against the owner of any Lot, or the holder of any mortgage upon any Lot, (b) not allow loss payments to be contingent upon any action by the insurance carrier's board of directors, policyholders, or members, (c) not include any limiting clauses (other than insurance conditions) which could prevent any Lot Owner or the holder of any mortgage upon any unit from collecting insurance proceeds, and (d) contain or have attached a mortgage clause which provides that the insurance carrier shall notify in writing all holders of first lien mortgages on any of the units at least ten (10) days in advance of the effective date of any reduction in, cancellation, or nonrenewal of such policies.

In no event shall any recovery or payment under the insurance coverage obtained and maintained by the Association be affected or diminished by insurance purchased by individual Lot owners or mortgagees, and no Lot Owner shall be entitled to exercise his right to maintain any additional insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which it may have in force on the Property at any particular time.

(d) Proceeds on Account of Damage to Common Elements. Insurance proceeds which shall be paid on account of damages to or destruction of any portion of the common elements shall be held by the Association in a construction fund, which shall be used for the purpose of repairing, reconstruction or rebuilding the portion of such common elements so damaged or destroyed, as provided in this Declaration. If it shall be determined in accordance with the provisions of this Declaration not to repair, reconstruct or rebuild the portion of the common elements so damaged or destroyed, then the insurance proceeds paid on account of the occurrence of such damage or destruction to such portion of common elements shall first be used to clean up and landscape the common elements as necessary in view of the fact that such part of the common elements is not to be repaired, reconstructed or rebuilt, and the remaining insurance proceeds shall be disbursed to the Lot Owners proportionately, such disbursement to be made payable jointly to the Lot Owners and their mortgagees. Notwithstanding anything contained in this Declaration, the Articles of Incorporation, the Bylaws, or the Act which may be construed to the contrary, in no event shall any insurance proceeds be paid to the Association on account of the occurrence of any fire or other casualty be deemed to be common profits.



ARTICLE X

**DAMAGE TO OR DESTRUCTION OF COMMON ELEMENTS**

Section 1. Repair, reconstruction or rebuilding of the common elements following damage or destruction to all or any portion of the common elements shall be governed by the following provisions:

(a) Estimates of the Cost of Repair. As soon as practicable following the occurrence of any damage to, or destruction of any portion of the common elements, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion of the common elements so damaged or destroyed to substantially the same condition as such portion of the common elements were in prior to the occurrence of such damage and destruction and shall proceed with the filing and adjustment of all claims arising under insurance maintained by the Association as a result of such damage or destruction.

(b) Determination to Repair, Reconstruct, or Rebuild. Any damage to, or destruction of the common elements will be repaired, reconstructed, or rebuilt unless the owners of the Lots to which seventy five (75%) percent of the votes in the Association are allocated shall determine within forty five (45) days after the occurrence of the casualty not to repair, reconstruct, or rebuild the same.

(c) Manner of Repair, Reconstruction or Rebuilding. All repairs, reconstruction, or rebuilding to be made as a result of damage by fire or other casualty shall be made in accordance with the following provisions:

(i) The damage shall be repaired, reconstructed, or rebuilt substantially in accordance with the plans and specifications for such damaged property prior to the occurrence of such damage;

(ii) All of the work of repairing, reconstruction, or rebuilding any portion of the common elements, the damage to or destruction of which cause the payments of insurance benefits under insurance policies maintained by the Association, shall be performed under the supervision of the Board of Directors which, in discharging such supervisory responsibility, shall be authorized to employ such building supervisors and architects as the Board of Directors shall deem to be in the best interest of the Association.

(d) Cost of Repairs, Reconstruction, or Rebuilding. The cost of repairing, reconstructing, or rebuilding any portion of the common elements which shall be damaged or destroyed shall be paid with any insurance proceeds which shall be paid to the Association on account on such damage or destruction. If such insurance proceeds are not sufficient to defray such cost of repair, reconstruction, or rebuilding, then the Board of Directors may levy a special assessment against all of the Lot Owners and Lots to raise the excess funds necessary to defray such cost.

ARTICLE XI

**PROVISIONS GOVERNING USE AND OWNERSHIP OF CONSERVATION EASEMENT, AMENITY EASEMENT AND AREAS, GREENSPACE AND AMENITY IMPROVEMENTS**

Section 1. Rules and regulations governing use of the conservation easement by the owners of the lots. Declarant's predecessor in the title has granted a Perpetual Conservation Easement over certain green space areas in the community to the Oconee River Land Trust, Inc., a Georgia non-profit corporation. Said green space upon which the Conservation Easement was granted is shown as green space on the plat of subdivision of Phase I of Boulder Springs, by Paul & Evans Land Surveying, Inc. dated 1-8-02, and being in 3 sheets, recorded in Plat Book 34, Pages 35, 36, and 37 in the office of the Clerk of the Superior Court of Oconee County, Georgia.

Said deed of Conservation Easement is recorded in deed book 522, pages 733, in the office of the Clerk of the Superior court of Oconee County, Georgia. Declarant is the fee simple owner of the aforesaid green spaces underlying the Conservation Easement as set forth on the above identified plat of Boulder Springs Subdivision. As stated in Article II of these covenants, Declarant shall, on or before the date of conveyance of the last lot in Phase I of the Subdivision, convey said green areas to the Boulder Springs Homeowners Association, Inc., whose members, after said conveyance shall have the right of use of said green space (Conservation Easement) areas, as such rights are set forth in the deed of easement, subject to certain rules, regulations and prohibitions, including the following activities and uses which are expressly prohibited, to wit:

A. Any activity on, or use of, the Property inconsistent with the purpose of this Conservation Easement is prohibited. Development that would significantly impair or interfere with the conservation values of the Property is prohibited.

(i). Industrial, Commercial and Agricultural Use. Industrial, commercial and manufacturing activities, including, but not limited to, commercial agriculture and horticulture use and livestock production, are prohibited.

(ii). Signage. Display of billboards, signs or advertisements is prohibited on or over the Property, except the posting of no trespassing signs, signs identifying the preservation and conservation values of the Property, signs identifying proper and improper uses of the Property, signs identifying the Grantor or his successor in title as owner of the Property, and signs identifying pedestrian trails, if any are constructed, and signs identifying the Grantee as holder of a conservation easement.

(iii). Subdivision. Subdivision or partitioning of the Property for any purpose is prohibited, except for the provision of utility easements as required by Oconee County. The placement of such easements shall be done with thirty (30) days prior notice to Grantee and will be done so as

to minimize the impact on surrounding vegetation and so as to minimize the impact on the scenic vista from New High Shoals Road.

(iv). Construction. The construction or placement of structures of any kind or improvements, in the easement is prohibited except for the construction, placement and maintenance of those items described in Article V of the Conservation Easement. Such construction shall occur only after thirty (30) days prior notice to Grantee and be done so as to minimize the impact on surrounding vegetation, and shall be done in accordance with Best Management Practices as set out in the Field Manual for Erosion and Sediment Control for Land Disturbing Activities issued by the Georgia Soil and Water Conservation Commission, as the same may be in effect at such time.

(v). Dumping. Disposal of soil, trash, ashes, grass clippings, garbage, waste, construction debris, abandoned vehicles, appliances, machinery, hazardous substances, sewage, or other materials on the property is prohibited. The installation of underground storage tanks is prohibited.

(vi). Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining, drilling or removal of topsoil, sand, gravel, rock peat, minerals or other materials; and no change in the topography of the land in any manner.

(vii). Water Quality and Drainage Patterns. There shall be no pollution, alteration, depletion or extraction of the surface water or natural water courses, subsurface water or any other water bodies, except for the withdrawal of well water. Notwithstanding the foregoing, there shall be no activities conducted on the Property or to the streams which cause soil degradation or erosion. Disruption of natural drainage patterns and creation of artificial drainage patterns is prohibited, including, but not limited to: construction of check dams and other impoundments, except as may be required by Oconee County or any other governmental authority. Any disruption of natural drainage patterns or creation of storm water control devices as required by Oconee County shall be constructed so as to minimize the impact on surrounding vegetation, and shall be done in accordance with Best Management Practices as set out in the Field Manual for Erosion and Sediment Control for Land Disturbing Activities issued by the Georgia Soil and Water Conservation Commission, as the same may be in effect at such time.

(viii). Road Construction. The construction of new roads is prohibited, except for the construction of firebreaks and fire roads built by the Georgia Forestry Commission or the U.S. Forest Service in an emergency situation and for the construction of unpaved access roads to any community water wells and other utilities as required by Oconee County or private utilities. Said access roads shall be constructed in accordance with Best Management Practices as set out in the Field Manual for Erosion and Settlement Control for Land Disturbing Activities issued by the Georgia Soil and Water Conservation Commission, as the same may be in effect at such time.

(ix). Timber Harvesting. Except as provided in Article V (A), harvesting, trimming, harming or removal of plants on the Property is also prohibited. Firewood removal is prohibited. This prohibition does not include the removal of trees or limbs that fall across any future pedestrian trail for maintenance purposes.

(x). Disturbance of Natural Features. Any change, disturbance, alteration or impairment of the natural, scenic, and aesthetic features is prohibited, except for the construction of trails as

provided at Article V (B), access roads as provided at VI (H), and the installation at the requirement of Oconee County of community drinking wells and storm water detention devices as provided at V (C), as set out in the Deed of Conservation Easement.

(xi). Commercial Recreation. All but *de minimus* commercial recreation is prohibited.

Section 2. Amenity Areas. Amenity areas are for the use of owners of the lots within the subdivision and shall not be subdivided and shall remain as green space subject to the amenity uses permitted, which shall be the construction and use of the existing lake, of tennis court, courts, picnic areas, swimming pool or pools, playgrounds, parking areas and clubhouse, all subject to the reasonable rules and regulations promulgated by the declarant and or the Association.

- a) Amenity areas are those areas so designated on the plat of subdivision of Boulder Springs as said plat is described in Section 1 of Article XI, above.
- b) The said Amenity areas are at the date of recording of these covenants, owned by Declarant who shall, on or before the date of conveyance of the last lot in Phase I of the subdivision, convey said Amenity areas to the Boulder Springs Homeowners Association, Inc. Whose members, after said conveyance, shall have the right of use of improvements in said Amenity areas, provided that the member must be a member in good standing and have paid all assessments, fees, dues or other sums which may be due to the Association. Such use shall also be subject to such reasonable rules and regulations governing the use of the improvements in the Amenity areas which the Association may establish from time to time.

Section 3. Establishment of Conservation Easement on the Amenity areas. Whereas, Declarant is the owner in fee simple of certain areas designated on the subdivision of Phase I of Boulder Springs as "Amenity areas" and Whereas, the Amenity areas possess natural, scenic and open space values (Collectively Conservation Values) of great importance to grantor, residents of Boulder Springs, Oconee County and the State of Georgia, and Whereas, grantor is willing to grant a perpetual Conservation Easement over said Amenity area thereby limiting the use of the property and preserving it as open space, subject to permitted uses as set out below, Therefore, Declarant does hereby grant a Conservation Easement over and in the Amenity areas as shown on the plat of Subdivision of Phase I of Boulder Springs by Paul & Evans Land Surveying Inc., dated 1-7-02, recorded in plat book 34, pages 35, 36 and 37 in the office of the Clerk of the Superior Court of Oconee County, Georgia.

- a) Each lot owner in Boulder Springs is granted an undivided interest in said easement.
- b) Said easement is granted in perpetuity to ensure that said Amenity area shall remain open space. Any activity on, or use of the property inconsistent with the purpose of the Conservation Easement is prohibited. Development that would significantly impair or interfere with the Conservation Values of the property is prohibited. The

following activities and uses are expressly prohibited within the easement by all lot owners.

(i). Industrial, Commercial and Agricultural Use. Industrial, commercial and manufacturing activities, including, but not limited to, commercial agriculture and horticulture use and livestock production, are prohibited.

(ii). Signage. Display of billboards, signs or advertisements is prohibited on or over the Property, except the posting of no trespassing signs, signs identifying the preservation and conservation values of the Property, signs identifying proper and improper uses of the Property, signs identifying the Grantor or his successor in title as owner of the Property, and signs identifying pedestrian trails, if any are constructed, and signs identifying the Grantee as holder of a conservation easement.

(iii). Subdivision. Subdivision or partitioning of the Property for any purpose is prohibited, except for the provision of utility easements as required by Oconee County. The placement of such easements shall be done with thirty (30) days prior notice to Grantee and will be done so as to minimize the impact of surrounding vegetation and so as to minimize the impact on the scenic vista from New High Shoals Road.

(iv). Construction. The construction or placement of structures of any kind or improvements, in the easement is prohibited except for the construction, placement and maintenance of those items described in Article V of the Conservation Easement. Such construction shall occur only after thirty (30) days prior notice to Grantee and be done so as to minimize the impact on surrounding vegetation, and shall be done in accordance with Best Management Practices as set out in the Field Manual for Erosion and Sediment Control for Land Disturbing Activities issued by the Georgia Soil and Water Conservation Commission, as the same may be in effect at such time.

(v). Dumping. Disposal of soil, trash, ashes, grass clippings, garbage, waste, construction debris, abandoned vehicles, appliances, machinery, hazardous substances, sewage, or other materials on the property is prohibited. The installation of underground storage tanks is prohibited.

(vi). Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining, drilling or removal of topsoil, sand, gravel, rock peat, minerals or other materials; and no change in the topography of the land in any manner.

(vii). Water Quality and Drainage Patterns. There shall be no pollution, alteration, depletion or extraction of the surface water or natural water courses, subsurface water or any other water bodies, except for the withdrawal of well water. Notwithstanding the foregoing, there shall be no activities conducted on the Property or to the streams which cause soil degradation or erosion. Disruption of natural drainage patterns and creation of artificial drainage patterns is prohibited, including, but not limited to: construction of check dams and other impoundments, except as may be required by Oconee County or any other governmental authority. Any disruption of natural drainage patterns or creation of storm water control devices as required by Oconee County shall be constructed so as to minimize the impact on surrounding vegetation, and shall be done in accordance with Best Management Practices as set out in the Field Manual for Erosion

and Sediment Control for Land Disturbing Activities issued by the Georgia Soil and Water Conservation Commission, as the same may be in effect at such time.

(viii). Road Construction. The construction of new roads is prohibited, except for the construction of firebreaks and fire roads built by the Georgia Forestry Commission or the U.S. Forest Service in an emergency situation and for the construction of unpaved access roads to any community water wells and other utilities as required by Oconee County or private utilities. Said access roads shall be constructed in accordance with Best Management Practices as set out in the Field Manual for Erosion and Settlement Control for Land Disturbing Activities issued by the Georgia Soil and Water Conservation Commission, as the same may be in effect at such time.

(ix). Timber Harvesting. Except as provided in Article V (A), harvesting, trimming, harming or removal of plants on the Property is also prohibited. Firewood removal is prohibited. This prohibition does not include the removal of trees or limbs that fall across any future pedestrian trail for maintenance purposes.

(x). Disturbance of Natural Features. Any change, disturbance, alteration or impairment of the natural, scenic, and aesthetic features is prohibited, except for the construction of trails as provided at Article V (B), access roads as provided at VI (H), and the installation at the requirement of Oconee County of community drinking wells and storm water detention devices as provided at V (C), as set out in the Deed of Conservation Easement.

(xi). Commercial Recreation. All but *de minimus* commercial recreation is prohibited.

Section 4. Nothing set out hereinabove in Sections 1,2 or 3 above in Article XI or otherwise shall prevent Declarant, its successors and assigns or the Association or Boulder Springs lot owners from utilizing the Amenity areas for residential recreation such as a swimming pool, tennis courts, fishing or boating lake, neighborhood meeting and club house, picnic areas, playgrounds, nature trails and other residential recreation uses not inconsistent with such intent as set out herein.

Section 5. It is the intention of Declarant and this easement to provide access to the easement areas to all lot owners in Boulder Springs by virtue of their undivided interest in the easement upon the Amenity areas; however it is the further intent that each homeowner must have paid all dues, fees, assessments or other charges that are due and payable to the Association in order to use the improvements within the Amenity areas.

ARTICLE XII

**GENERAL PROVISIONS**

**Section 1. Easements for Architectural Control Committee.** There is hereby created in favor of the Architectural Control Committee, its members, agents, employees and any management company retained by the Architectural Control Committee, an easement to enter in or to cross over the Lots to inspect and to perform the duties of maintenance and repair of the Lots, as provided for herein.

**Section 2. Easements for Declarant.** Declarant hereby reserves for himself, his successors and assigns, agents, employees, contractors and sub-contractors, the following easements and rights-of-way in, on, over, under and through any part of the Community for so long as Declarant owns any Lot primarily for the purpose of sale:

(a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community antenna, 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 use as sales offices, model lots and parking spaces in connection with his efforts to market Lots; and

(e) For the maintenance of such other facilities as reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

**Section 3. Easements for the Association.** There is hereby created in favor of the Association, its Board of Directors, its members, agents, employees and contractors, an easement to enter upon, enter in, or cross over the Lots for the purpose of providing the maintenance required by the Association in this Declaration.

**Section 4. Enforcement.** The Architectural Control Committee, the Association, or any Owner, including Declarant, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, fees and charges now or hereafter imposed by the provisions of this Declaration. Failure by any person to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 5. Duration.** The Provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law. Provided, however,

so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run and bind the land so long as permitted by such law and such provisions may be renewed or extended in whole or in part beyond the initial period permitted by such law for successive periods not to exceed the period permitted by such law provided such renewal or extension is approved by at least sixty-seven (67%) percent of the Lot Owners. Every Purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance or a deed or other conveyance therefore, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 6. Rights of Mortgagee In addition to the rights elsewhere provided, each mortgagee of a Lot, or purchaser or insurer of a mortgage on any Lot subject to this Declaration, including Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the Veterans Administration and the Federal Housing Administration shall (a) be entitled to written notice from the Association of any default by an Owner in the performance of his obligations under the Declaration which is not cured within thirty (30) days; (b) be entitled to attend and observe all meetings of Owners, but not meetings of the Association's Board of Directors; (c) be furnished copies of annual financial reports made to the Owners; (d) be entitled to inspect current copies of the Declaration, Articles of Incorporation, By-Laws, Rules and Regulations, books, records and financial statements of the Association during normal business hours; (e) be entitled to written notice from the Association of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (f) be entitled to written notice from the Association of any condemnation or casualty loss that affects a material portion of the Community, or the Lot securing its mortgage and (g) be entitled to timely written notice of any proposed action which would require the consent of a specified percentage of mortgagees; provided, however, that such mortgagee or purchaser or insurer of such mortgage shall first file with the Association a written request that such notices be sent to a named agent or representative of the mortgagee at an address stated in such notice.

Section 7. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) 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, (ii) 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, (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, 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, or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, provided any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

Section 8. All amendments other than those specified hereinabove shall be adopted as follows:



(a) At least sixty-seven (67%) percent of the Lot Owners shall be necessary to amend this Declaration. Notwithstanding anything to the contrary herein, it is expressly provided that any amendment which adversely affects the title to any Lot must be approved by the Owner of such Lot in writing. Each lot owner shall have one vote. Multi-lot owners shall have as many votes as lots owned.

(b) The proposed amendment may be proposed by either the Lot Owners or Declarant. The Declarant, or the Association, may call a meeting of the Lot Owners to consider such an amendment and shall be required to call such a meeting upon a petition signed by at least twenty-five (25%) percent of the Lot Owners. If a meeting of the Lot Owners is called to consider such an amendment, the time within which and the manner by which notice of such meeting shall be given, the authorized use of proxies, and the quorum required for the transaction of business at such meeting shall correspond to the requirements for meetings of the Association.

(c) The consent of the Lot Owners required to approve said amendments shall be obtained by affirmative vote, written consent, or a combination thereof. A meeting of the Lot Owners shall not be required in the event that the requisite approval of the Lot Owners is obtained by written consent. The required consent of Declarant shall be in writing.

Section 9. 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 mortgage affecting any Lot unless such holder shall consent thereto in writing. The written consent thereto of any mortgage holder affected thereby shall be filed with such amendment. Every purchaser or grantee of any interest in any real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section.

Section 10. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

Section 11. Gender and Grammar. The singular whenever used herein shall be construed to mean the plural when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 12. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration 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 13. Captions. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed

as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument under seal this 12<sup>th</sup> day of April, 2002

Signed, sealed and delivered in the presence of

Boulder Springs Development, LLC

Donald Heford

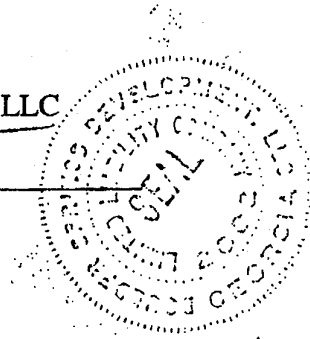
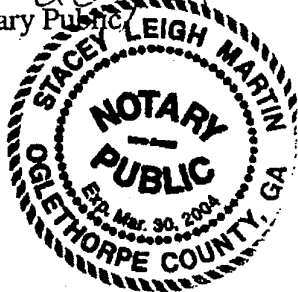
By: Robert B. Fine

Witness

Robert B. Fine

Stacey Leigh Martin

Notary Public



Return to:  
Donald W. Hansford, PC  
P O Box 1378  
Watkinsville, GA 30677

FILED IN OFFICE  
CLERK OF SUPERIOR COURT  
OCONEE COUNTY, GEORGIA

02 APR 16 PM 12:13

REC. BOOK 591 PAGE 124

DATE 4-16-02  
ANGELA WATSON, CLERK

OCONEE COUNTY, GEORGIA  
Real Estate Transfer Tax

Paid \$ 45.90

Date 4-16-02

Cady Williams CSC  
County Clerk

(SPACE ABOVE THIS LINE FOR RECORDING DATA)

**WARRANTY DEED**

STATE OF GEORGIA, OCONEE COUNTY

THIS INDENTURE, Made this 15<sup>th</sup> day of April in the year of our Lord Two Thousand Two between **BOULDER SPRINGS DEVELOPMENT, LLC**, a Georgia limited liability company of the County of Oconee and State of Georgia as Grantor(s) and **FINE HOMES, INC.**, a Georgia corporation of the County of Oconee and State of Georgia as Grantee(s).

WITNESSETH, That the said Grantor(s), for and in consideration of the sum of **TEN AND NO/100ths DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION**, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, grant(s), bargain(s), sell(s) and convey(s), and by these presents grant(s), bargain(s), sell(s) and convey(s) unto the said Grantee(s), all the following property, to-wit:

All that lot, tract or parcel of land, containing 0.697 acre, more or less, situate, lying and being on the southeasterly side of Spring Valley Way, in the 239<sup>th</sup> District, G. M. of Oconee County, Georgia, being known and designated as Lot Thirty-Six (36), Block D of Boulder Springs Phase One, and being more particularly shown and delineated according to a plat of survey entitled "Survey for Boulder Springs Phase One," prepared by Paul & Evans Land Surveying, Inc., certified by Gregory J. Evans, Georgia Registered Surveyor, dated January 7, 2002, and recorded at Plat Book 34, pages 35-37, in the Office of the Clerk of Superior Court of Oconee County, Georgia, which said plat and the record thereof are by reference incorporated herein.

The above property is conveyed subject to minimum building set back line, Protective Covenants for Boulder Springs Phase One as recorded contemporaneously herewith, and all easements and utilities in use.

TO HAVE AND TO HOLD, The said bargained premises, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging in or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee(s), forever in Fee Simple.

And the said Grantor(s) will warrant and forever defend the right and title to the above described property unto the said Grantee(s) against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor(s) hand(s) and seal(s) is(are) affixed hereto, individually or by duly authorized officers, the day and year first above-written.

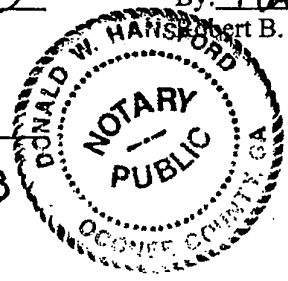
Signed, sealed and delivered in presence of:

**BOULDER SPRINGS DEVELOPMENT, LLC**, a Georgia limited liability company

*Stacy Martin*  
Witness

By: *Robert B. Fine*  
Robert B. Fine, Member

*Donald W. Hansford*  
Notary Public  
My Comm. Expires: 1/23/03  
Affix notary seal here.



STATE OF GEORGIA  
COUNTY OF OCONEE

03 FEB 25 PM 2:26  
647 710-711  
02-25-03

FIRST AMENDMENT TO  
DECLARATION OF RESTRICTIONS AND COVENANTS

BOULDER SPRINGS SUBDIVISION  
OCONEE COUNTY, GEORGIA

THIS DECLARATION, made on the date hereinafter set forth by Boulder Springs, LLC of Oconee County, Georgia (hereinafter sometimes called "Declarant").

RECITALS:

Declarant is the owner of the real property referenced in Section 1 of Article II of this Declaration and described in Exhibit "A" attached to the original Declaration. Said original Declaration and exhibit were recorded April 12, 2002 in Deed Book 591, pages 98-123 in the records of Oconee County Georgia.

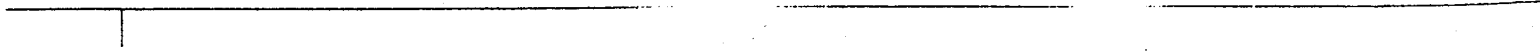
Declarant desires to subject the real property described in the original Declaration in Exhibit " A " to the provisions of the Declaration and this amendment and to avail the Community of the provisions and benefits of the Georgia Property Owner's Association Act codified at O.C.G.A §44-3-220, et seq.;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" to the original Declaration, including the improvements constructed thereon, be subjected to this Declaration as amended, is hereby subject to the provisions of this Declaration as amended, and the provisions of O.C.G.A §44-3-220, et seq. and shall be held, sold, transferred, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the covenants and restrictions (sometimes referred to herein collectively as "covenants and restrictions") hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to the real property hereby made subject hereto, and shall be binding on all persons having any right, title or interest in all or any portion of the real property now made subject hereto, their respective heirs, legal representative, successors, successors in title and assigns, and shall inure to the benefit of each and every owner of all of any portion thereof.

The Declarations of Restrictions and Covenants are hereby amended as set forth below:

1.

Section 6 (a) of Article V of said original Declaration is hereby deleted and an amended Section 6 (a) of Article V is substituted in lieu thereof as follows:



"6 (a) All residences in Boulder Springs Subdivision shall contain a minimum of 2400 square feet of heated living space for a one story home and 2600 square feet of heated living space for a one and a half or two story home. The 2400 square feet of heated, living space for one story homes shall exclude garages, porches, terraces, bonus rooms and basements. One and a half or two story homes must have a minimum of 1800 square feet of heated living space on the first floor excluding, garages, porches, terraces, and basements. In a one and one half story or two story house, a bonus room will be allowed as part of the required heated living space on any floor above the first or main floor. Owners may request, in writing to the Architectural Control Committee, a waiver of these requirements and said Architectural Control Committee may, under reasonable circumstances, in its sole discretion, grant such a request, where the resulting appearance of the home and lot preserves the overall appearance, scheme and design of the community."

2.

The following shall be added to Section 3 of Article VI:

- (a) Immediately after the word "Hardware" in the underlined heading of Section 3, the following shall be added: "All mailboxes within the subdivision shall uniform and of decorative design."
- (b) Immediately after the word "Signs" and immediately before the word "On" insert the following: "and street number."

3.

The previous Declaration of Restrictions and Covenants shall remain in full force and effect, subject to this amendment.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein has executed this instrument under seal this \_\_\_\_ day of February, 2003.

Signed, Sealed and Delivered  
in the presence of

*Henry Martin*

Boulder Springs Development, L.L.C.

*Robert B. Fine*

Witness

Robert B. Fine

*Kasamirand*

Notary Public

