

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR HIGH GABLES SUBDIVISION

This Declaration is made this the 19th day of July, 1999,  
by HIGH GABLES, INC. a Georgia Corporation (hereinafter called "Declarant").

WITNESSETH:

WHEREAS, Declarant is presently developing a tract of real property known as HIGH GABLES SUBDIVISION in Land Lots 248, 301, 302, 347, 348 and 395 of the 14<sup>th</sup> District and 1st Section, Forsyth County, Georgia more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, which development will have subdivided lots, open spaces and other common areas; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said development and for the continued maintenance and operation of such facilities; and, to this end, desires to subject the real property described in Exhibit "A" to this Declaration to the protective covenants, restrictions, easements, assessments and liens hereinafter set forth, each of which is and are for the benefit of said property and each Property Owner thereof, and to make provisions for subjecting other real property which may be developed as a part of said community to this Declaration or to other declarations containing protective covenants, restrictions, easements, assessments and liens;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" to this Declaration is hereby subjected to this Declaration and is and shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the protective covenants, restrictions, easements, assessments and liens (sometimes referred to herein collectively as "covenants and restrictions") hereinafter set forth. Every grantee of any such real property now or hereafter made subject to this Declaration, 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 other 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 shall be deemed to have assented to said terms and conditions:

ARTICLE I  
DEFINITIONS

SECTION 1 - DEFINITIONS

The following words when used in this Declaration or in any supplementary declaration (unless the context shall prohibit) shall have the following meanings:

*pd.*  
*miles & Reese*  
*(Cumming)*

Forsyth County  
Clerks Office Superior Court  
Filed for record on the 19  
day of July 1999  
at 3:45 o'clock P.M. Recorded in  
Book \_\_\_\_\_ Page \_\_\_\_\_  
day of July 1999

(a) HIGH GABLES SUBDIVISION shall mean and refer to that certain development known as HIGH GABLES SUBDIVISION which is being developed on real property now owned by Declarant in Forsyth County, Georgia described on Exhibit "A" hereto.

(b) COMMON AREA shall mean and refer to those landscaped areas, swim and playground amenity, entry areas, street lighting and other common facilities in HIGH GABLES SUBDIVISION which are presently owned by Declarant, which shall in the future be conveyed to HIGH GABLES HOMEOWNERS ASSOCIATION, INC. which are for the exclusive use and enjoyment of the residents of HIGH GABLES SUBDIVISION.

(c) LOT shall mean and refer to any numbered plot of land comprising a single dwelling site designated on any plat of survey in the Office of the Clerk of Superior Court of Forsyth County, Georgia now or hereafter made subject to this Declaration.

(d) PROPERTY OWNER shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot, excluding, however, those persons who shall have such interest merely as security for the performance of an obligation.

(e) PERSON shall mean and refer to a natural person, as well as a corporation, partnership, association, trust or other legal entity.

(f) FAMILY UNIT shall mean a natural person, his or her spouse, and all of their unmarried children under twenty-one (21) years of age residing with them. A family unit shall also include any natural person having his or her principal place of residence upon any Lot.

(g) MORTGAGE shall include chattel mortgage, bill of sale to secure debt, deed of trust and any and all similar instruments given to secure the payment of any indebtedness.

(h) DECLARANT shall mean and refer to HIGH GABLES INC., a Georgia Corporation, its successors and assigns.

(i) ASSOCIATION shall mean and refer to HIGH GABLES HOMEOWNERS ASSOCIATION, INC., a non-profit Georgia Corporation, its successors and assigns, to whom Declarant may from time to time assign the responsibility and authority of operating and maintaining the common properties at HIGH GABLES SUBDIVISION.

(j) The use of the masculine pronoun shall include the neuter and feminine and the use of the singular shall include the plural where the context so requires.

(k) STANDARD BUILDING AND DESIGN SPECIFICATIONS shall mean the written guidelines which the Declarant and/or Architectural Control Committee (ACC) shall from time to time adopt, promulgate, amend, revoke and enforce for the purpose of (i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration; (ii) governing the procedure for such submission of plans and

specifications; (iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior color and materials, details of construction, location and size of structures and all other matters that require approval by the ACC pursuant to this Declaration and (iv) assuring the conformity and harmony of external design and general quality of High Gables Subdivision. The Declarant or the ACC shall make a published copy of its current Standard Building and Design Specifications readily available to the Members and prospective Members of the Association, builders and all applicants seeking ACC approval.

## ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, by the recording of this Declaration, subjected to the covenants, restrictions, easements, assessments and liens hereafter set forth and which, by virtue of the recording of the recording of this Declaration, shall be held transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration is as follows:

All that tract or parcel of land lying and being in Land Lots 248, 301, 302, 347, 348 and 395 of the 14<sup>th</sup> District and 1st Section, Forsyth County, Georgia being more particularly described on a subdivision plat of HIGH GABLES SUBDIVISION which is recorded at Plat Book \_\_\_\_\_ Pages \_\_\_\_\_, Forsyth County Records, which plat is incorporated herein by reference.

## ARTICLE III COMMON PROPERTIES

### SECTION 1 - OWNERSHIP

The ownership of all the common properties, including the facilities thereon, shall be exclusively in the Declarant initially and shall be transferred by the Declarant to HIGH GABLES HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation, and upon said transfer, no other person shall, by the recording of this Declaration, by the recording of any plat of survey, or by any permissive use, have any ownership interest in the common properties. The Common Areas shall be conveyed to the Association free and clear of any encumbrances, other than the Declaration.

### SECTION 2 - MANAGEMENT

After transfer by Declarant, the Association, as the owner of all of the common properties, shall have the sole authority and control to manage and to operate the common properties in such a manner as it sees fit, including, but not limited to the right to formulate rules and regulations regarding the use thereof, and, subject to the provisions of this Declaration, the right to determine the persons entitled to the use of the same.

## SECTION 3 - USE AND ENJOYMENT

The Property Owner of a Lot now or hereinafter subjected to the assessments and lien for nonpayment thereof set forth in Article IV hereof shall, upon the purchase and closing of a Lot in HIGH GABLES SUBDIVISION automatically become a member of HIGH GABLES HOMEOWNERS ASSOCIATION, INC. and such Property Owner and the Family Unit of such Property Owner shall have the privilege to use and enjoy the common property. Each Lot shall have one vote interest in the Association.

## SECTION 4 - DURATION OF MEMBERSHIP

Any person, who becomes a member of the Association by whatever means, shall not thereby acquire any ownership interest in the common properties. Further, membership in the Association shall run with the title to the Lot and in the event of the conveyance of the Lot to another Property Owner, the membership of the former Property Owner in the Association by virtue of the ownership of such Lot shall pass to the new Property Owner upon written notice of such event to the Association by the new Property Owner. The Association shall not be required to honor such written notice unless and until the new Property Owner shall furnish to the Association a copy of his deed or other conveyance, as the same appears of record, evidencing his ownership of such Lot. Upon the transfer of title of any Lot, all fees, dues and assessments owed the Association shall be paid in full. Upon request, the Association shall furnish a statement of all sums due.

## SECTION 5 - SUSPENSION OF MEMBERSHIP

The Association shall have the right to suspend the privilege to use and enjoy the common properties in respect to any Lot for which any assessment, or any portion thereof, is delinquent, whether the personal obligation to pay the same is that of the present Property Owner or that of a previous Property Owner, or for the infraction of Association rules and regulations. The Association shall not suspend any of the present Property Owner's privileges to use and enjoy the common properties due to the failure of a prior Property Owner to pay the required assessments when the present Property Owner has acquired title to the Lot by or through the foreclosure of a Deed to Secure Debt.

## SECTION 6 - CHARGES OTHER THAN ASSESSMENTS

In addition to the assessments provided for in Article IV hereof, the payment of which are not dependent on actual use of the common properties, the Association shall have the right to charge, and change from time to time, such other separate and additional fees or charges as reasonable, necessary or desirable for the maintenance and operation of the common properties.

ARTICLE IV  
ASSESSMENTS

SECTION 1 - CREATION OF THE LIEN AND PERSONAL OBLIGATION  
ASSESSMENTS

Each Lot now or hereafter subjected to this Declaration is subject to a lien and permanent charge in favor of HIGH GABLES HOMEOWNERS ASSOCIATION, INC. for the assessments set forth in Article IV. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a permanent charge and continuing lien upon the Lot against which it relates, and shall also be the joint and several personal obligation of each Property Owner of such Lot at the time the assessment fell due, and each such Property Owner hereby covenants, and by acceptance of a deed or other conveyance therefore, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay the same to HIGH GABLES HOMEOWNERS ASSOCIATION, INC. as and when due.

SECTION 2 - AMOUNT OF ASSESSMENTS

The yearly assessment due and payable on the first day of September of each year for completed houses (houses for which the certificate of occupancy has been issued) shall be set by the Association no later than November 1st of the preceding year. The yearly dues may be changed by the Association as provided by its by-laws, rules and regulations. The initial assessment by the Association will be \$395.00.

SECTION 3 - ASSESSMENTS, DUE DATES AND EXEMPT PROPERTY

Yearly assessments shall be due and payable on the September 1<sup>st</sup> of each year, in advance. Yearly assessments shall not be due and payable on any Lot when owned by the Declarant. Upon the closing of the purchase of a Lot, the purchaser shall pay at closing prorated yearly assessments through the end of the year of purchase.

Upon request, the Association will furnish to any Property Owner liable for any such assessments a certificate in writing setting forth the status of payment of any assessment due. Such certificate shall be conclusive evidence of payment of any assessments therein stated to have been paid. All common properties and Lots owned by the Declarant shall be exempt from the assessments, charges and liens created herein. Although exempt from assessments as provided herein, Declarant shall be entitled to be a voting member of the Association and shall have one vote in the Association for each Lot which the Declarant owns which is subject to this Declaration. In exchange for the Declarant's exemption from assessments, Declarant shall pay any shortfall in the operation expenses of the Common Area until such time as Declarant turns over the common property to the Association. When Declarant has conveyed ninety percent (90%) of the Lots then subject to this Declaration to third parties, or at such earlier time as Declarant may elect and notify the Association in writing, Declarant shall cease to be liable for the shortfall in the operation expenses of the Common Areas.

SECTION 4 - EFFECT OF NONPAYMENT OF ASSESSMENT, THE PERSONAL  
OBLIGATION OF THE OWNER, REMEDIES OF HIGH GABLES  
HOMEOWNERS ASSOCIATION, INC.

If all or any portion of an assessment is not paid on the date when due as herein above provided, then such unpaid amount, together with such interest thereon and collection cost thereof as hereinafter provided, shall be a charge and continuing lien on the Lot to which it relates, and shall bind such property in the hands of the then Property Owner, his heirs, successors in title and assigns. Each Property Owner shall be liable for such portion of each assessment coming due while he is the Property Owner, and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefore.

Any such assessment, or ,portion thereof, not paid when due, as hereinabove provided, shall bear interest from the due date at one and one-half percent (1 ½ %) per month until paid in full and the Association may bring legal action against the Property Owner obligated to pay same and/or foreclose its lien against the Lot to which it relates. Such lien may be foreclosed by the Association by a suit, judgement and foreclosure in the same manner as liens for the improvement of real property. In either such event, the Association shall also be entitled to recover all costs associated with enforcement and all costs of collection, including its reasonable attorney's fees. Each Property Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in any appropriate proceeding in law or in equity. Declarant and the Association shall have the power to bid in the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Property Owner may be relieved from liability for the assessments provided for herein by non-use of the common properties or by abandonment of his Lot or otherwise.

For any assessment which is more than thirty days (30) past due, the Association shall be entitled to file a lien upon the deed records of Forsyth County, Georgia indicating the amount of the past due indebtedness and the date upon which it became due and payable.

SECTION 5 -SUBORDINATION OF THE CHARGES AND LIENS TO MORTGAGES

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

(b) Such subordination is merely a subordination and shall not relieve the Property Owner of the mortgaged property of his personal obligation to pay all assessments or portions thereof which come due as herein above provided; shall not relieve such property from the lien and permanent charge provided for herein (except to the extent a subordinated lien and permanent charge is extinguished as a result of such subordination as against a mortgage or such mortgagee's assignee or transferee by foreclosure or by sale or transfer in any proceeding in lieu of foreclosure or by sale under power); and no sale or transfer of such property to the mortgagee or to any other person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure, or pursuant to a sale under power, or pursuant to sale under judicial order, shall relieve any existing or previous Property Owner of such property of any personal obligation, or relieve such property or the then and subsequent Property Owner from liability from any assessment provided for hereunder coming due after such sale or transfer.

(c) Notwithstanding the foregoing, the Association may at any time, either before or after any mortgage or mortgages are placed on such property, waive, relinquish or quitclaim in whole or in part the right of the Association to assessments provided for hereunder with respect to such property coming due during the period while such property may be held by a mortgagee or mortgagees pursuant to such sale or transfer.

(d) Notwithstanding anything to the contrary contained in this Article IV, the sale or transfer of any Lot pursuant to foreclosure of a first priority mortgage or Deed to Secure Debt, or in any proceeding in lieu thereof, shall extinguish the lien of the assessments as to payments which became due prior to such sale or transfer only.

## ARTICLE V PROPERTY OWNERS ASSOCIATION

### SECTION 1 - PURPOSES

As hereinabove provided, the Declarant owns all of the common properties. Declarant has caused to be incorporated or shall cause to be incorporated HIGH GABLES HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation, and Declarant shall place title to the common properties in said non-profit corporation and assign certain responsibilities to it. By virtue of this Declaration, the Association covenants and agrees to accept title to the common properties when the deed, bill of sale or other evidence of conveyance thereof is tendered to the Association by the Declarant. The Association shall have no right to object to the form, substance or time of such conveyance. This non-profit corporation (the "Association") will then maintain the common properties and perform such responsibilities conveyed or assigned to it and it is for that purpose that Declarant has caused the Association to be incorporated. The conveyance of the common property by the Declarant shall be subject to the terms, conditions, provisions and limitations of the Declaration and shall further be subject to any additional provisions or limitations placed upon the property by Declarant prior to conveyance to the Association and the association shall have the right to collect the assessments and fees herein provided. The Common Areas shall not be mortgaged or conveyed to any public or quasi-public agency or authority or

any utility or cable television system, other than the conveyance of easements, rights-of-way, licenses, permits and other use rights thereover, without the consent of two-thirds (2/3) of the Property Owners who are members of the Association. Any such consent shall be subject to prior approval of the FHA or VA if and so long as required by the FHA or VA.

#### SECTION 2 - MEMBERSHIP

The membership of the Association shall consist of the owners of the Lots in HIGH GABLES SUBDIVISION and each Lot shall be entitled to one vote, the voting rights of any member being subject to suspension for nonpayment of assessments.

#### SECTION 3 - MEETINGS

All matters concerning meetings of the members of the Association, including the time within which and the manner in which notice of the meetings shall be given to members, and the quorum required for the transaction of business at such meetings; shall be specified in the Articles of Incorporation or By-Laws of the Association.

#### SECTION 4 - INTENT

It is the intention of the Articles of Incorporation and this Declaration to establish as the sole and only members of the Association the owners to a fee simple title to each Lot now subjected or in the future subjected to this Declaration so that there shall be one vote for each Lot now or in the future subjected to this Declaration.

#### ARTICLE VI

#### LAND USE RESTRICTIONS AND BUILDING REQUIREMENTS

#### SECTION 1 - USE RESTRICTIONS, BUILDING REQUIREMENTS AND ZONING REGULATIONS

All Lots, tracts and parcels of land hereby subjected to this Declaration shall be used only as herein set forth and only in compliance with the applicable zoning regulations of Forsyth County, Georgia. All Lots shall be used for single family residential use only and no structure located thereon shall be used for a church, school, kindergarten, beauty shop or any commercial use or purpose. Also, nothing contained in this Declaration shall be construed to prevent Declarant from erecting and maintaining, or authorizing the erection and maintenance of structures and signs for the development and sale of the property in HIGH GABLES SUBDIVISION. Declarant reserves the right to maintain one construction trailer, one sales trailer and signage (at the sole discretion of the Declarant) relating to the marketing of the property on the property until all Lots are developed and sold. Each and every one of the Lots, tracts and parcels of land hereby subjected to this Declaration shall be improved, occupied and used for the respective purposes and permitted uses as designated herein and in compliance with the zoning regulations of Forsyth County, Georgia and with the Standard Building and Design



Specifications, as defined in Article I, Section 1 above.

## SECTION 2 - BUILDING AND USE RESTRICTIONS

(A) No Lot shall be subdivided or its boundary lines changed without the consent of the Declarant. Only one structure for residential use shall be erected on each Lot. Declarant hereby expressly reserves the right to re-plot any Lot shown on any recorded plat prior to delivery of a deed therefore to a Property Owner to create a modified Lot or Lots. The covenants and restrictions herein shall apply to each Lot so created or revised thereby. In addition, subject to and consistent with the Standard Building and Design Specifications, each Lot shall be developed and subject to the following:

(i) Residences of one story shall have a minimum of 1,800 square feet of improved, heated finished floor space exclusive of open porches, garages, decks, patios, and basements, finished or unfinished. Two story structures (or structures with more than one story) shall have a minimum of 2,000 square feet of improved, heated finished floor space exclusive of open porches, garages, decks, patios, and basements, finished or unfinished.

(ii) all residences shall have a two-car, enclosed garage. No parking pads (utilized in lieu of an enclosed garage) or carports shall be permitted;

(iii) All fencing on any lot shall be either two or three rail split-rail fencing type and there shall not be any privacy fencing allowed and shall not be erected, maintained or altered on any Lot without the prior written consent of the Architectural Control Committee, which consent may be arbitrarily withheld. In the event the fencing described herein is to be utilized for animal containment, then such fence shall be with welded wire construction. There shall be no out buildings, utility buildings or accessory structures constructed which are not a part of the original, approved home and landscape plan, unless such structures and landscaping are approved by the Architectural Control Committee in its sole discretion. No construction of any improvements shall be commenced before complying with the provisions hereinbefore set forth;

(iv) Satellite dishes will be permitted only if they are in the rear of the house and attached to the main structure of the house and measure 18 inches or less. No other external television, radio or other data receiver/transmitter of any sort shall be placed, allowed or maintained upon any Lot or structure thereon without the prior written approval of the ACC;

(v) All clotheslines, garbage cans, wood piles and waste shall be screened so as to conceal them from the view by neighboring residences and streets;

(vi) No house trailer, mobile home, motor home, recreational vehicle, camper, truck with camper top, boat or boat trailer or like equipment shall be permitted on any Lot on a permanent basis, but shall be allowed on temporary basis not to (a) exceed seven (7) consecutive days or (b) twenty-five (25) total days in any calendar year;

(vii) Recreational and playground equipment shall be placed, erected or installed only upon the rear of the Lot except that basketball goals, backboards and poles may be placed or installed other than upon the rear of the Lot provided they are painted and maintained in accordance with the Standard Building and Design Standards. Additionally, no free standing flag poles or similar equipment shall be installed or maintained upon any portion of a Lot;

(viii) No motor vehicle, trailer or like equipment shall be parked in or upon the streets and roadways within High Gables Subdivision on an overnight basis or for a period in excess of eighteen (18) hours within any twenty four (24) hour time period;

(ix) Prior to occupancy of a residence, a Lot shall be suitably landscaped in accordance with landscape plans required by the Architectural Control Committee. All yards shall be sodded from the front edge of the house to the curb. Notwithstanding this requirement, however, as to corner and other irregularly shaped Lots, all areas other than the back yard area shall be sodded. In addition, all front yard areas within each lot shall contain an automated water irrigation system. The Architectural Control Committee shall determine in its sole discretion what constitute corner or irregularly shaped Lots and may permit natural areas within all areas required to sodded;

(x). No signs, billboards or advertising structures of any kind shall be permitted on any Lot except with the written permission from the Association; provided, however, Declarant reserves the right to use such signs, billboards or advertising structures as shall be reasonably necessary to provide for the sale of Lots and homes contained within the property;

(xi) No business trades, commercial enterprises or product distribution shall be conducted on any Lot; and

(xii) 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 such pets are not kept, bred or maintained for any commercial purpose, are not permitted to roam free and in the sole discretion of the ACC, do not endanger the health and safety of others, make objectionable noise or constitute a nuisance or inconvenience to the owners of other Lots or the owner of any property located adjacent to High Gables Subdivision. No structure for the care, housing or confinement of any pets shall be maintained without the written permission of the ACC and if permitted, shall be maintained so as to not be visible from the neighboring Lots.

(B) All Lots, together with the exterior of all improvements located thereon, shall be maintained in a neat and attractive condition by their respective Property Owners.

(C) The Association may allow reasonable variances and adjustments of the above and foregoing conditions and restrictions set forth in the Article in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein; provided, however, that such is done in conformity to the intent and purposes thereof.

(D) All governmental building codes, health regulations, zoning restrictions and the like applicable to the property now or hereinafter made subject to this Declaration shall be observed. In the event of any conflict between any provisions of any governmental code, regulation or restriction and any provisions of this Declaration, the more restrictive provision shall apply.

(E) Neither the Declarant nor the Association 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.

#### ARTICLE VII ARCHITECTURAL CONTROL COMMITTEE

It is the express purpose and intent of this Declaration to insure that HIGH GABLES SUBDIVISION is developed with compatible architectural styles and a homogeneous atmosphere so as to insure quality development and to protect the investment of each owner in the residence to be constructed thereon. When the last residence is constructed in the subdivision, or at such earlier time as the Declarant elects, Declarant shall turn over the Architectural Control Committee and the right to appoint members thereto to the Association.

All plans and specifications for all improvements and/or alterations to be made and undertaken on each Lot shall be approved by the Architectural Control Committee in writing, prior to commencement of any construction. The Architectural Control Committee shall review all proposals submitted and respond within ten (10) business days after receipt of each proposal. The decisions and comments of the Architectural Control Committee shall be final and binding upon all parties to this Declaration unless any such decision is patently arbitrary and malicious, applying reasonable commercial standards.

The Architectural Control Committee, in exercising its discretion, shall be governed by the High Gables Standard and Design Specifications and consider at a minimum, roof design, exterior material, trim material, roof material, fencing, fireplace construction, driveway location, landscape plan, square footage, exterior decks, exterior color scheme, and site elevations for overall conformity with subdivision theme.

The Architectural Control Committee shall be selected by Declarant and shall consist of at least one member.

#### ARTICLE VIII GRANT OF EASEMENTS AND COMMON AREA AND SERVICE MAINTENANCE

##### SECTION 1 - GRANT OF EASEMENTS

The owner of each Lot in HIGH GABLES SUBDIVISION, for himself, his successors and assigns, hereby grants to every other owner and to the Association a permanent,

non-exclusive, easement for ingress and egress for pedestrian and vehicular traffic, for the installation, construction and maintenance of public and private utilities, for the continuing maintenance and care of landscape areas, access easements, drainage and detention or retention areas, water, sewer and drainage lines and facilities located within HIGH GABLES SUBDIVISION including but not limited to the right-of-way of streets, access easements and utility easements as shown on the final recorded plat of subdivision recorded at Plat Book \_\_\_\_\_, Pages \_\_\_\_\_, Forsyth County Records. Declarant and the Association and their respective agents and contractors, by the grant of this easement, shall have the express right, privilege and authority to go upon all of the Lots of HIGH GABLES, INC. for the purpose of servicing, repairing and maintaining all water lines, pumps and facilities, sewage and drainage lines, ponds and facilities, wiring servicing common areas and other public or private utilities located wholly or partially upon any Lot or common area in HIGH GABLES SUBDIVISION. This easement shall run with the land, shall bind the Grantors hereof, their respective successors and assigns and shall inure to the benefit of the Grantees herein stated, their respective heirs, successors and assigns. Any person acquiring a Lot in HIGH GABLES SUBDIVISION shall acquire said Lot subject to all of the easements herein granted.

## SECTION 2 - COMMON AREA EXPENSES

HIGH GABLES SUBDIVISION will contain a swim and playground amenity and certain common areas with walls and fences thereon. The expense of maintaining all of these items, together with any other expenses of the Association, shall be shared by the owner of each Lot of the subdivision and shall be paid from the assessments referred to in this Declaration.

The lighting in the common areas will be electric and the cost of the electricity for the operation of these items shall be included within the yearly assessment to the owners of the Lots.

No illegal drugs shall be allowed to be possessed or consumed within the common areas as provided for herein.

## ARTICLE IX GENERAL PROVISIONS

### SECTION 1 - DURATION

The covenants and restrictions of this Declaration shall run with and bind with the land, shall be and remain in effect, and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Property Owner of any Lot now or hereafter subject to this Declaration, their respective heirs, legal representatives, successors and assigns for a period of twenty (20) years from the date this Declaration is filed for record in the Office of the Clerk of the Superior Court of Forsyth County, Georgia. Said covenants and restrictions may be renewed and extended, in whole or in part, beyond said period for successive periods not to exceed ten (10) years each, if any agreement for renewal and extension is signed by the Association and at least two thirds (2/3) of the Property Owners whose Lots are then subject thereto. No such agreement

of renewal and extension shall be effective unless filed for record at least thirty (30) days prior to the effective date of such renewal and extension. Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that the covenants and restrictions of this Declaration affix to his property and may be extended as provided in this section.

#### SECTION 2 - AMENDMENT

The covenants and restrictions of this Declaration may be amended at any time and from time to time by the Declarant without the consent of the Property Owners whose Lots are then subject thereto and without the consent of the owner of any portion of the common properties (if other than Declarant) if such amendment does not adversely affect the rights of such Property Owners or any such owner of any portion of the common properties. The covenants and restrictions of this Declaration may be amended at any time and from time to time by an agreement signed by two thirds (2/3) of the Property Owners whose Lots are subject thereto; provided, however, such agreement by the Property Owners shall not be effective unless also signed by the Declarant if Declarant is the owner of any such Lots then subject thereto; provided, further, such amendment by the Property Owners shall not be effective unless also signed by the owner of any portion of the common properties if such amendment adversely affects the rights of any such owner of any portion of the common properties. Any such amendment shall not become effective until the instrument evidencing such change has been filed for record in the Office of the Clerk of the Superior Court of Forsyth County, Georgia. Every purchaser or grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that the covenants and restrictions of this Declaration may be amended as provided in this section. So long as Declarant may unilaterally amend this Declaration for the purposes specified in this section, without the approval of the Property Owners, any such amendment rights shall be subject to the prior approval of the FHA or VA so long as required by either of them.

#### SECTION 3 - ENFORCEMENT

The Declarant, the Association or any Property Owner may enforce the covenants and restrictions contained in this Declaration. Enforcement of the covenants and restrictions contained herein and of any other provisions hereof shall be by any appropriate proceeding at law or in equity against any person or persons violating or attempting to violate said covenants, restrictions or other provisions, either to restrain violation, to enforce personal liability, or to recover damages, or by any appropriate proceeding at law or in equity against the land to enforce any charge or lien arising by virtue thereof. Any failure by Declarant, the Association or any Property Owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed as a waiver of the right to do so thereafter.

SECTION 4 - ASSIGNABILITY OF POWERS AND DISPOSITION OF COMMON PROPERTIES

As hereinabove provided, Declarant is the exclusive owner of all of the common properties in HIGH GABLES SUBDIVISION and Declarant may assign to HIGH GABLES HOMEOWNERS ASSOCIATION, INC. the complete and sole control and authority to manage and operate the common properties, as well as collect assessments, fees and dues. Also, as hereinabove provided, Declarant has reserved unto itself certain other rights, powers and authority. Declarant hereby further reserves the right to assign to HIGH GABLES HOMEOWNERS ASSOCIATION, INC. any or all of Declarant's rights, powers and authority hereinabove reserved unto Declarant. Declarant further reserves the right to give to the Association all or any portion of the common properties and in furtherance thereof, Declarant and the Association have entered into an agreement pursuant to the terms of which the Association has agreed to accept the same if and when transferred or conveyed by the Declarant to the Association. This agreement is irrevocable. Declarant and the Association have agreed that the Association will accept title to all or any portion of the common properties when transferred or conveyed by the Declarant.

SECTION 5 - SEVERABILITY

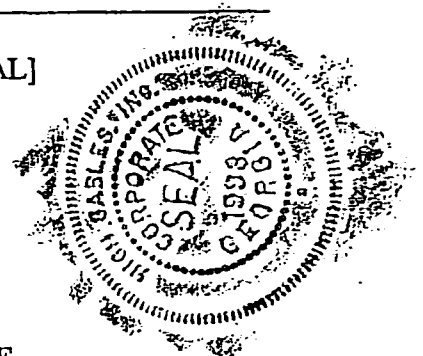
If any provision of this Declaration shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision which can be given effect without the invalid provision or application and to this end the provisions of this Declaration are declared to be severable.

IN WITNESS WHEREOF, the Declarant has executed this instrument under seal by and through its duly authorized officers as of the day and year first above written.

HIGH GABLES, INC.

By: [Signature]  
Title: pre

[CORPORATE SEAL]



- SIGNATURES CONTINUE ON NEXT PAGE -

BK 1538PG0783

Signed, sealed and delivered  
in the presence of:

Witness *[Signature]*  
Notary *TONY CLARK*  
Notary *TONY CLARK*  
Date *5/27/03*  
Notary Public  
FORSYTH COUNTY  
EXPIRES  
MAY 27, 2003  
GEORGIA

Consented to by:

REGIONS BANK

By *[Signature]*  
Title Vice President  
[BANK SEAL]

BK 1538 PG 0784

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 248, 301, 302, 347, 348 and 395 of the 14<sup>th</sup> District and 1<sup>st</sup> Section of Forsyth County, Georgia and being 136.62 acres as shown on survey entitled "Survey for High Gables," dated August 18, 1998 as prepared by Chastain & Reece, P.C., Registered Land Surveyors and being recorded in Plat Book 55, page 155, and in Final Plats of High Gables Phases I and II at Plat Book 57, pages 142-149 and Plat Book 57, pages 150-158, respectively, Forsyth County, Georgia Public Records, which plat and record thereof are incorporated herein by reference for a more complete description of said property.