

**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
PUMPKIN HOLLOW, A CONDOMINIUM**

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STATE OF ALABAMA)
SHELBY COUNTY)

**AMENDED AND RESTATED DECLARATION
OF CONDOMINIUM OF
PUMPKIN HOLLOW, A CONDOMINIUM**

This Amended and Restated Declaration made this ^(7th) ~~Seventh~~ day of FEBRUARY, 1994, by Mary F. Roensch, E. Burns Roensch, Jr., Thomas A. Ritchie and Brenda M. Hackney (collectively the "Individual Owners"), and Pumpkin Hollow Development Corp., an Alabama corporation (herein "Developer") the original Declaration having been recorded in Book 324 at page 16, Shelby County, Alabama Probate Office, pursuant to the Condominium Ownership Act of Alabama, Code of Alabama, 1975, Section 35-8-1, et seq. (as may be amended by the Alabama Uniform Condominium Act of 1991), for the purpose of creating a condominium and establishing certain easements, covenants and restrictions to run with the land.

WHEREAS, the Developer and the Individual Owners are the fee simple owners of certain improved real property situated in Shelby County, Alabama, described in detail in Map Book 18, pages 3-8 (the "Land"); and

WHEREAS, the purpose of this Declaration is to submit the Land to the condominium form of ownership and use in the manner provided by the Condominium Ownership Act, Code of Alabama, 1975, Section 35-8-1, et seq., as amended by the Alabama Uniform Condominium Act of 1991, (the "Act"); and

WHEREAS, the Developer is the fee simple owner of other real property adjacent to the Land more particularly described in Exhibit A to this Declaration which may, at the option of the Developer, be submitted in whole or in part to condominium ownership under this Declaration as subsequent phases, but the Developer is not required to submit any portion thereof to condominium ownership under this Declaration (the "Subsequent Phase Land"). The effect of the submission of all or any portion of the Subsequent Phase Land to condominium ownership under this Declaration is explained in Section XXI of this Declaration entitled Phase Development.

NOW, THEREFORE, the Developer and the Individual Owners hereby make the following Declaration, and specify that the provisions hereof shall constitute covenants running with the land and shall be binding upon the parties hereto, their successors and assigns and all subsequent purchasers of all or any part of the Land together with their grantees, successors, heirs, executors, administrators, devisees or assigns:

I. PURPOSE

The Land is herewith submitted to the Condominium form of ownership as shown in the plat or plans shown on pages 3-8 of Map Book 18, Probate Office aforesaid (the "Plans"), all in accordance with the provisions of the Act.

II. NAME

The name by which this Condominium is to be identified is Pumpkin Hollow, A Condominium (the "Condominium").

III. DEVELOPMENT

The Land has been improved by construction on various Common Areas and Common Elements all as set forth and described on the Plans.

IV. DEFINITIONS

The Terms used herein and in the By-Laws shall have the meaning stated in the Act and as follows:

"Act" means the Condominium Ownership Act, Code of Alabama, 1975, Section 35-8-1, et seq., as amended by the Alabama Uniform Condominium Act of 1991, Section 35-8A-101, et seq.

"Articles of Incorporation" means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Shelby County, Alabama.

"Association" means Pumpkin Hollow Association, Inc., an Alabama not-for-profit corporation, and its successors.

"Board" means the Board of Directors of the Association.

"By-Laws" means the duly adopted By-Laws of the Association.

"Common Areas" shall mean those areas in common use identified as such on the Plans.

"Common Elements" mean the Common Areas as defined herein and in said Act and shall include those parts of the Condominium Property not included within the Unit boundaries, as more particularly described in Section V hereafter, and the tangible personal property required for the maintenance and operation of the Condominium.

"Common Expenses" include those defined by the Act, together with the expenses for which the Owners are liable to the Association, actual or estimated, pursuant to the By-Laws. The term Common Expenses shall not include any fee, expense or bill which is assessed against a Unit as a result of Utility Services provided to a Unit or ad valorem taxes or assessments levied against a Unit by any government entity.

"Condominium" means Pumpkin Hollow, A Condominium.

"Condominium Property" or "Property" means and includes all of the Private and Common Elements of the Land, and all easements, rights and appurtenances thereto, and all personal property provided by the Developer and intended for use by all residents of the Condominium Property and shall include the Subsequent Phase Land and improvements thereon in the event Developer elects to submit all or any portion of the same to condominium ownership under this Declaration.

"Control Period" means the period in which the Developer is in control of the Association and exempt from payment of assessments. The term of the Control Period is set forth in Section XXIII.

"Declaration" means and refers to this Declaration of Condominium of Pumpkin Hollow, A Condominium, and all amendments thereto.

"Developer" means Pumpkin Hollow Development Corp. The term Developer shall not include persons who purchase a Condominium Unit from Pumpkin Hollow Development Corp.

"Improvements" means the residential units and other improvements described in the Plans. The term "Improvements" shall also mean any residential units and improvements on the Subsequent Phase Land in the event that Developer elects to submit all or any portion of the Subsequent Phase Land to condominium ownership under this Declaration.

"Land" means the real estate described in Map Book 18, pages 3-8, Probate Office aforesaid, subject to all easements, rights of way and other restrictions set forth therein or herein reserved. The term "Land" shall also mean the Subsequent Phase Land described in Exhibit A to this Declaration, subject to all easements, rights-of-way and other restrictions set forth in Exhibit A or herein reserved, in the event that Developer elects to submit all or any portion of the Subsequent Phase Land to condominium ownership under this Declaration. The Subsequent Phase Land described in Exhibit A is not submitted at this time to condominium ownership, and may only be submitted to condominium ownership by amendment(s) to this Declaration, properly executed and recorded by Developer.

"Member" means a member of the Association. Membership in the Association shall be confined to the person who holds a fee simple interest in a Unit. In the case of ownership of a Unit by more than one person, all persons having such interest shall designate the member of the Association. There shall be one vote per Unit on any matter coming before the membership of the Association.

"Owner" means a Unit owner and shall include his heirs, successors and assigns and shall include the Developer as to those Units of which it is the Owner.

"Plans" or "Plat" means the drawings and graphics depicting the Common Elements and Private Elements of the Condominium Property as recorded in the Office of the Judge of Probate of Shelby County, Alabama, at Map Book 18, pages 3-8. The Plans will not be amended at any

time to identify improvements or Single Family Residences constructed on the various Units.

"Private Elements" means all parts of the Condominium Property included within a Unit as set forth in Section VI and all Improvements thereon intended for private use by the Owner.

"Rules and Regulations" means the duly adopted rules and regulations of Pumpkin Hollow Association, Inc. made for the purpose of regulating the Condominium Property, as they may be amended from time to time.

"Single Family Residence" shall mean a dwelling constructed on a Unit in accordance with the restrictions and conditions set forth in this Declaration.

"Unit" means the Private Elements of the Condominium Property included within the boundaries of a Unit as defined in this Declaration, together with the Private Elements appurtenant to a Unit, if not included within the definition of the boundaries of a Unit, and the undivided interest in the Common Elements which are assigned thereto in this Declaration, together with the interests, easements and other rights appurtenant to a Unit as provided for under the Act.

"Utility Services" shall include but not be limited to electric power, TV cable, garbage and sewage disposal and any other governmental or public utility assessment, fee or bill.

Singular, plural, gender. Whenever the context so permits, the use herein of the plural shall include the singular, the use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

V. COMMON ELEMENTS DEFINED

The Common Elements of the Condominium include the following, unless specifically included within a Unit:

- (a) The Common Areas identified as such on the Plans;
- (b) The lake, the dam and spillway;
- (c) The roadways, streets, parking areas and any betterments identified as such on the Plans, including the private roadway described in the Plans;
- (d) All maintenance facilities including employee residence; and water storage tanks, pumps, outdoor lighting and the like;
- (e) All Access Easements, Utility Easements or other easements, rights or appurtenances affecting or relating to the use of the Condominium Property.

VI. PRIVATE ELEMENTS - UNITS DEFINED

The Private Elements of each Unit shall include the real estate allocated to the particular Unit as shown on the Plans, the boundaries being set forth on the Plans; together with all Improvements located within the boundaries of a Unit.

1. **Other Private Elements.** Each Unit shall include as Private Elements all air conditioning and heating equipment serving each Single Family Residence exclusively, and plumbing and electrical equipment serving that particular Single Family Residence exclusively and Utility Services serving the Single Family residence on a Unit exclusively.

2. **Identification.** Each Unit is assigned a number which is indicated on the Plans, and is described as to Unit Number, dimensions, and other data necessary for its proper identification on the Plans.

3. **Encroachments.** If any portion of the Common Elements now encroaches upon any Unit, or if any Improvements now encroach upon any other Unit or upon any portion of the Common Elements as a result of the construction of the Improvements, or if any such encroachment shall occur hereafter as a result of settling or shifting of the Improvements, a valid easement for the encroachment and for the maintenance of the same, so long as the Improvements stand, shall exist. In the event an Improvement or Common Element shall be partially or totally destroyed as a result of fire, or other casualty, or as a result of the condemnation or eminent domain proceedings, and then rebuilt, encroachments of part of the Common Elements upon any Unit or if any Improvements encroach upon any other Unit or upon any portion of the Common Elements, due to such construction and maintenance thereof, an easement for such encroachment shall exist.

4. **Allocation of Common Elements.** Each Unit shall have a 1/42 undivided fractional interest in the Common Elements, subject to dilution pursuant to the provisions of Article XXI of this Declaration.

5. **Units Subject to Rules and Regulations.** All present and future Owners and occupants of any Unit shall be subject to, and shall comply with the provision of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of occupancy of any Unit shall constitute an agreement that the provision of this Declaration, the By-Laws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such Owner or occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or other conveyance thereof.

VII. EASEMENTS

1. **Access Easement.** An Access Easement is hereby created on the Property strictly according to the Plans. This Access Easement shall be for the purpose of ingress, egress, private roadways, installation, replacing, repairing and maintaining all utilities, including but not limited to water, gas, telephone and electricity.

2. **Utility Easements.** An easement is hereby granted to the water, natural gas, TV cable, electrical and/or telephone company to erect and maintain the necessary poles, underground lines and other necessary equipment on said Property and to affix and maintain electrical and/or telephone wires, transformers, circuits and conduits on, above and across the Units. An Easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the private driveways and streets on the Property in the performance of their duties. An easement is hereby granted to the Association, its officers, agents, employees and to any management company elected by the Association to enter in or to cross over the Units as provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Developer or as thereafter approved by Developer or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer shall have the right to grant such easement on the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

3. **Construction Easement.** Developer herewith reserves a "construction easement" for so long as any Unit is unimproved with a residence for the purpose of allowing the Developer, its assignees, grantees, agents, servant and employees, access to all or any part of the Condominium Property for the construction and renovation of the Common Elements and Improvements on each Unit in the Condominium Property. Each Owner by acceptance of a deed to a Unit herewith waives any and all right of claims, demands or causes of actions which he may have as a result of construction activity by the Developer, its assignees, grantees and any of its or their agents. The construction easement herein includes, but is not limited to, the following types of activity: construction of the Common and Private Elements; paving and landscaping work; and all other types of construction activity which Developer, in the exercise of its sole discretion, may undertake to beautify or improve the Condominium Property, during the Control Period.

VIII. ENFORCEMENT

Failure of any Owner to comply strictly with the provisions of this Declaration, the By-Laws and Rules and Regulations, shall be grounds for an action to recover sums due, fines or damages, or injunctive relief or any or all of them. Such actions may be maintained by the Association on its own behalf or on behalf of the Owners aggrieved. In any case of flagrant or repeated violation by an Owner, he may be prohibited from use of the Common Elements other

than the roadways, or he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of this Declaration, the By-Laws and the Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved Owner for such relief.

IX. MAINTENANCE

1. **Association Maintenance.** The Association, as a Common Expense, shall maintain, repair and replace if necessary the following:

- (a) All portions of the Common Elements;
- (b) All transformers, conduits, ducts, plumbing, wiring and other facilities for the furnishing of Utility Services which are located on a Unit but which service other parts of the Condominium Property.

The Association may enter into a contract with any firm, person or corporation, in contracting for the maintenance and repair of the Property and may delegate to such agent all or any portion of the powers and duties of the Association, except such as are specifically required by this Declaration or the By-Laws to have the approval of the Members of the Association; provided, however, that any such contract shall not extend beyond the date the Owners obtain control of the Association.

2. **Owner's Maintenance.** Each Owner shall maintain his Unit and the Improvements thereon in good tenantable condition and repair, and shall repair, maintain and replace if necessary the following:

- (a) The improvements on his Unit, including all window glass, walls, landscaping, exterior doors, electric panels, wiring, outlets, and electric fixtures; screening and exterior glass;
- (b) The plumbing, heating, ventilation, air conditioning and electrical systems serving a particular Single Family Residence exclusively, whether located within or without the boundary of the Unit including the heater and air-conditioner compressor, hot water heaters, fuse boxes, wiring, fireplace flues and all other plumbing, electrical, gas or mechanical systems. In the event any such system or a portion thereof is situated on another Unit or requires access to another Unit then the repair, maintenance or replacement thereof shall be performed by the Association, and the costs thereof shall constitute an assessment against the Owner responsible therefor.

3. Owner's Covenants. Each Owner agrees as follows:

- (a) To perform all maintenance, repairs and replacements which are his obligation under Section IX-2 hereof;
- (b) To pay for all of his utilities, including electricity, water and telephone used within the Unit, all taxes levied against his Unit and the special assessments, if any, levied by Shelby County;
- (c) Not to make, or cause to be made, any repairs to any plumbing, heating, ventilation or air conditioning systems located on another Unit but required to be maintained by him under Section IX-2(b) hereof except by a repairman approved by the Association;
- (d) To allow the Association, its delegates, agents, or employees at all reasonable times to enter onto any Unit for the purpose of maintaining, inspecting, repairing or replacing Common Elements; or for repairing, maintaining or replacing plumbing, heating, ventilation or air conditioning systems located on such Unit but serving other parts of the Condominium Property; or in order to determine in case of emergency, the circumstances threatening Units or Common Elements and to correct the same; or, to determine compliance with the provisions of this Declaration and the By-Laws;
- (e) To promptly report to the Association any defects or all needed repairs for which the Association is responsible;
- (f) No signs or billboards whatsoever (including, but not limited to, commercial, "for sale", political and similar signs) which are visible from neighboring property shall be erected or maintained on any Unit, except:
 - (i) Such signs as may be required by legal proceedings;
 - (ii) Reasonable residential identification signs;
 - (iii) During the time of construction of any building or other improvement, one job-identification sign not larger than eighteen by twenty-four inches in height and width and having a face area not larger than three square feet; and
 - (iv) Such signs, the nature, number and location of which have been approved in advance by the Architectural Committee.

Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Developer or its duly authorized agents, of structures, improvements or signs necessary or convenient to the development, sale, operation and other disposition of the Units.

4. Reallocation of Maintenance Responsibility. On a vote of the Owners to two-thirds (2/3) of the Units at any regular or special meeting of the membership of the Association, the Association shall be authorized to maintain and charge for maintenance of various components of the Private Elements of each Unit such as lawn and landscaping care and fertilization, exterior window cleaning, sweeping of driveways on the Units, and the like. Any such resolution passed by the membership of the Association shall set forth with particularity the services to be performed on the Private Elements by the Association or its agents and the charge for such service which charge shall be collected by the Association and shall constitute an assessment made by the Association pursuant to the annual assessment provided for in Section XII(a). Failure of any Owner to pay this portion of the annual assessment shall create a lien against his Unit just as if the said Owner failed to pay any other assessment duly authorized and made by the Board of Association. Collection of any unpaid charges of this category of expense shall be pursuant to and in compliance with Section XII-8 of this Declaration.

X. ARCHITECTURAL CONTROL

1. Objectives of Architectural Control. Architectural and design review shall be directed towards attaining the following objectives:

- (a) Preventing excessive or unsightly grading, indiscriminate earth moving, clearing of property, or removal of trees and vegetation which would cause disruption of natural water courses or scar natural landforms;
- (b) Insuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of Pumpkin Hollow and with surrounding Units and structures;
- (c) Insuring that the architectural design of structures and their materials and colors are visually harmonious with Pumpkin Hollow's overall appearance, with the surrounding development, with natural land forms and native vegetations;
- (d) Insuring the plans for landscaping provide visually pleasing settings for structures on the same Unit and on adjoining or nearby Units, and blend harmoniously with the natural landscape; and
- (e) Insuring that any structure, building or landscaping complies with the provisions of these covenants.

2. Architectural Committee. The Developer shall establish and appoint an Architectural Committee which shall consist of not less than three (3) nor more than five (5) members; provided, however, that the Developer may transfer such Architectural Committee rights to the Association at any time prior to the sale of all Units. Upon the Developer selling all Units, the Architectural Committee rights shall be transferred to the Architectural Committee appointed by the Board of Directors of the Association. The regular term of office for each member elected by the Board of Directors of the Association shall be one (1) year, coinciding with the fiscal year of the Association. Any member appointed by the Developer may be removed with or without cause by the Developer at any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Any member elected by the Board of Directors of the Association shall be removed in accordance with the By-Laws of the Association.

3. Release. Neither the Architectural Committee nor any member thereof shall be liable to any Owner or to any other party for any damage, loss or prejudiced suffered on account of the approval or disapproval of any plans, drawings or specifications, whether or not defective, or the execution or filing of any action, motion, certificate, petition or protest in the courts of the United States or the State of Alabama, or with any other governmental board or body, whether or not the facts stated therein are true and correct.

4. Powers and Duties. The Architectural Committee shall have the following powers and duties:

(a) To require submission to the Architectural Committee of plans and specifications for any Improvement or Single Family Residence or other permitted structures of any kind, and any change, modification or alteration thereof, including, without limitation, any such improvement or change to any home, fence, wall, sign, lighting system, site paving, grading, screen enclosure, sewer, drain, disposal system, landscaping or landscape device or object, the construction or placement of which is or is proposed upon any Unit. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architectural Committee and shall include but not necessarily be limited to:

(i) An accurately drawn and dimensional plot plan showing all set-backs, easements, drives and walks;

(ii) Foundation plan, floor plan, exterior elevations of the Single Family Residence as it will actually appear after all back filling and landscaping is done from finished ground up;

(iii) All plans must include a specifications list of proposed materials and samples of exterior material which cannot be adequately described on the plans, or materials with which the Architectural Committee is unfamiliar;

(iv) The name and address of the Owner's General Contractor who will construct the residence and all other improvements to the Unit.

The Architectural Committee may also require such additional information as reasonably may be necessary for the Architectural Committee to evaluate completely the proposed structure or improvement or General Contractor in accordance with this Declaration. All information submitted to the Architectural Committee shall be delivered to the offices of Pumpkin Hollow Development Corp., or such other address as may be reflected by the Architectural Committee in a duly recorded instrument filed in the Probate Office of Shelby County, Alabama.

(b) The Architectural Committee shall approve or disapprove the submitted plans and specifications for any improvement, residence or structure as hereinabove described and approve or disapprove the General Contractor prior to commencement of constructions of such improvement, home or structure within sixty (60) days of submission of the documentation required herein. Partial submissions shall not be permitted. In the event that the Architectural Committee shall fail, for a period of sixty (60) days from the date of receipt of such submission, to approve or disapprove any plans or specifications submitted to it for approval, the same shall be deemed to have been approved. The approval by the Architectural Committee of plans and specification submitted for its approval, as herein specified, shall not be deemed to be a waiver by the Architectural Committee of the right to object to any of the features or elements embodied in such plans or specifications if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use on other Units. If any improvement or structure as aforesaid shall be completed, changed, modified or altered without the prior approval of the Architectural Committee, or shall not be completed, changed, modified or altered in accordance with the approvals granted by the Architectural Committee, or the Owner engages a General Contractor other than the approved General Contractor, then the Owner shall, upon and in accordance with a demand by the Architectural Committee, cause the property, improvements or structure either to be restored to its original condition or to comply with the plans and specifications as approved by the Architectural Committee, or engage another approved General Contractor, and shall bear all costs and reasonable attorneys' fees of the Architectural Committee. Notwithstanding the aforesaid, after the expiration of one (1) year from the date of final completion of any such improvement or structure, such improvement or structure shall be deemed to comply with all of the provisions hereof unless prior to the expiration of said one (1) year period either notice to the contrary shall have been recorded in the Office of the Judge of Probate of Shelby County, Alabama or written notification shall have been forwarded to the Owner by the Architectural Committee. Any agent or member of the Architectural Committee may at any reasonable time enter any building or property subject to the jurisdiction of the Architectural Committee which is under construction or on or in which the agent or member may believe that a violation

of this Declaration is occurring or has occurred. Prior to the use or occupancy of any improvement or structure constructed or erected on any Unit, the Owner thereof shall apply for certification from the Architectural Committee that the construction thereof has been completed in accordance with the plans and specifications by the Architectural Committee. In the event that the Architectural Committee shall fail, for a period of sixty (60) days from the date of receipt of such application, to give or deny such certification, the same shall be deemed to have been given. The Architectural Committee may, from time to time, delegate to a person or persons the right to approve or disapprove plans and specifications and to issue such certification.

(c) To adopt fees which shall be designed to reimburse the Architectural Committee for the necessary and reasonable costs incurred by it in processing requests for Architectural Committee approval of any matters under its jurisdiction. Such fees, if any, shall be payable to the Architectural Committee, in cash, at the time that any application for approval is sought from the Architectural Committee.

(d) Neither the Architectural Committee nor any agent thereof nor the Developer shall be responsible to check for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

(e) The Developer shall be exempt from the provisions of this Section as to any Improvements constructed during the Control Period.

XI. RESTRICTIONS

1. Use Restrictions. The Units and the Improvements thereon will be used for residential purposes only, and no trade or business purposes, including all types of home industry, will be permitted. No building or structure other than a Single Family Residence, a garage for not more than four cars, a boat house, a detached out building, or a pier shall be erected on any Unit within the Condominium Property except as otherwise permitted herein. Prohibited uses include, but are not limited to:

(a) dangerous, noxious, offensive or excessively noisy activities which may be or become an annoyance or nuisance to Owners; and

(b) raising, breeding, or keeping any animals, birds or fowl; provided that an Owner shall be permitted to keep not more than two dogs and/or cats as domestic pets in a single Unit and such other animals, birds or fowl specifically permitted by the Association; and

(c) exploring, mining, boring, quarrying, drilling or otherwise removing oil or other hydrocarbons, minerals gravel or natural gas; and

(d) no tree houses shall be permitted except as may be permitted by the Architectural Committee.

2. Exterior Lighting. All exterior lighting shall be subject to the review of the Architectural Committee. No dusk-to-dawn lighting shall be permitted.

3. Utilities. All electrical and telecommunication lines located upon the Units shall be installed and maintained underground.

4. Maintenance. All Single Family Residences, landscaping and Improvements upon individual Units shall be continuously maintained by the Owner thereof so as to preserve a well-kept appearance.

(a) Trash. No trash, garbage or other refuse shall be dumped, stored or accumulated on any Unit. Trash, garbage or other waste shall not be kept on any Unit except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Architectural Committee as not to be visible from any road or within sight distance of any other Unit at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction period, or except as specifically approved by the Architectural Committee.

(b) Landscaping. No refuse pile or unsightly object shall be allowed to be placed or suffered to remain upon any part of a Unit, including vacant parcels. All landscaping shall be in conformity with the direction of the Architectural Committee.

5. Temporary Structures. No structure of a temporary character, trailer, basement, or shack shall be used at any time as a residence either temporarily or permanently. No storage building of any type shall be permitted unless such building is approved by Architectural Committee. There shall be no occupancy of any Single Family Residence until the interior and exterior of the Single Family Residence is completed.

6. Fences. No fence shall be installed or modified without the prior approval of the Architectural Committee as to materials, height and location.

7. HVAC Equipment.

(a) Outside air conditioning units may not be located in the front or lakeside yard. All outside air conditioning units shall be hidden from view by shrubbery, or other foliage or fencing that otherwise satisfies the requirements hereof.

(b) All vents protruding from roofs shall be painted the same color as the roof covering.

8. Satellite Dishes; Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors within the Properties, whether attached to a building or structure or otherwise, unless approved by the Architectural Committee, provided that such approval shall not be withheld if an antenna or other device is reasonably necessary for clear television or radio reception. The Architectural Committee may impose reasonable restrictions with respect to antennas in order to ensure aesthetic compatibility with the neighborhood. No satellite dishes will be allowed on any Unit.

9. Swimming Pool. Nothing herein contained shall prohibit the construction of a swimming pool on any Unit, together with such appurtenances as may be reasonably necessary for the use and enjoyment thereof, subject to approval of the Architectural Committee in the manner prescribed for other improvements. Unless and to the extent otherwise determined by the Architectural Committee, no Owner shall leave swimming pool lights on after 11:00 p.m., provided that this provision shall not relate to in-water swimming pool lights or normal exterior home flood lighting.

10. Storage of Boats, Trailers and Other Vehicles. No wrecked boats or automobiles, unmaintained automobiles or vehicles other than operating automobiles or vehicles shall be stored or located on any Unit.

11. No Tenants Allowed. No Unit shall be leased to either a short term or long term tenant.

12. Enforcement. If a determination is made by the Architectural Committee that any of the restrictions in this Section are being or have been violated, then the Architectural Committee shall so notify the Owner in writing, specifying the violation. If within thirty (30) days from such notification, the Architectural Committee shall make a second determination that sufficient progress has not been made to remedy the violation, the Architectural Committee may itself, direct such actions to be taken as shall be necessary or appropriate to remedy such violation. The Owner shall be liable for the cost and expense of all such actions, including legal fees, and the Architectural Committee may treat all such costs and expenses therefor as a charge which shall become a lien of the Association on the affected Unit enforceable by appropriate proceedings at law or in equity.

13. Transfer of Ownership of Units. An Owner shall have the unrestricted right to transfer ownership of a Unit to his spouse or to one of his lineal descendants either during his lifetime or upon his death. All other transfers of Unit ownership (either during the lifetime or upon death of an Owner) shall be subject to the prior written approval of the Board of Directors of the Association. Transfer of ownership of a Unit other than to a spouse or lineal descendant of the Owner without the prior written approval of the Board shall cause the Association to have the right and option to purchase for cash such Unit at an amount equal to its fair market value as determined by two independent real estate appraisers, one of whom shall be chosen by the Board and one of whom shall be chosen by the new Owner. In the event that each of the appraisers arrives at a fair market value which is within \$10,000 of the other, then the fair market value shall be deemed to be the average of the two. In the event that the two appraisals are not within \$10,000 of each other, then the two appraisers shall choose a third appraiser who shall conclusively determine the fair market value of the Unit for this purpose. No person shall be qualified as an appraiser hereunder who is not an MAI. If the Board elects to purchase the Owner's Unit, the closing of the sale shall take place within thirty (30) days after the date of the Board's notification or, if an appraisal is required, within thirty (30) days after receipt of the final appraisal. The cost of all appraisals shall be shared equally by the Board and the Owner.

XII. ASSESSMENTS

1. Creation of the Lien and Personal Obligation of Assessments. All assessments shall be payable to the Association. Each Owner, by acceptance of the deed to such Unit, covenants and agrees to pay:

- (a) An annual assessment in an amount which equals a proportionate share of the Common Expenses, such share being the same as such Owner's fractional share of ownership in the Common Elements;
- (b) Supplemental assessments if required by the Board of Directors of the Association in accordance with the By-Laws of the Association; and
- (c) Special assessment for capital improvements fixed, established and collected from time to time as hereinafter provided.
- (d) The annual, supplemental and special assessment, together with interest thereon and costs of collection thereof, shall be charged against, and the Association shall have therefor a continuing lien upon, each Unit against which such assessment is made. Such lien shall also see all assessments which come due thereafter until the lien is satisfied. Each Owner shall be liable for his portion of each assessment coming due while he is the Owner of a Unit, and his successor in title shall be jointly and severally liable with the grantor for such portion thereof as may be due and payable at the time of a conveyance or which may thereafter become due and payable although applicable to the period prior to the conveyance, but without prejudice to the rights of such successor to recover from the grantor the amounts paid by such successor therefor. Each Unit owned

by the Developer shall be exempt from any and all assessments for Common Expenses during the Control Period as set forth in Section XXIII. If the holder of a first mortgage of record or other purchaser of a Unit obtains title to such Unit as a result of foreclosure of the first lien or by means of a deed in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of annual and special assessments due the Association pertaining to such Unit or chargeable to the former Owner which became due prior to the acquisition of title as a result of the foreclosure. Such unpaid share of the annual and special assessments shall be deemed to be a Common Expense collectible from all remaining Owners, including such acquirer, his successors and assigns. The Association shall, immediately upon foreclosure or other arrangement in lieu of foreclosure, satisfy and release its assessment lien of record.

2. Priority of Lien. The lien against any Unit for assessments in favor of the Association shall be prior and superior to all other liens except any lien for taxes, the lien of any mortgage of record and any other lien recorded prior to the time for recording of the claim of the Association's lien. The sale or transfer of any Unit shall not affect the assessment lien; provided, however, that upon the sale or transfer of any Unit pursuant to foreclosure of a first mortgage or by means of a deed in lieu of foreclosure, the lien of such assessment shall be satisfied and released of record as provided in Section XII-1(d) above.

3. Annual Assessment for Common Expenses. The annual assessments levied by the Association shall be collected and held by the Association for the payment of the Common Expenses which shall include, but not be limited to, administrative, insurance repair, replacement, reserve funds and maintenance expenses of the Property, in accordance with this Declaration, the By-Laws of the Association and the Act. Should two-thirds of the Owners approve by resolution, charges for maintenance of certain of the Private Elements may be included within the annual assessment. An Owner shall be acceptance of title be conclusively presumed to have agreed to pay his proportionate share of the Common Expenses accruing while his the Owner of a Unit, and no Owner may exempt himself from liability for such share of the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by abandonment of his Unit or otherwise. The provisions of the attached By-Laws relating to assessments are incorporated herein by reference as if fully set forth.

4. Capital Account or Reserve Fund. There shall be required, as an item included in the Common Expenses, a contribution to a capital account or reserve fund to cover unforeseen contingencies or deficiencies arising from unpaid assessments or liens and to cover expenditures in connection with maintenance and repair of capital improvements upon the Common Elements. The portion of the annual assessment which is allocated for such contribution shall be maintained by the Association in a separate capital account with separate records maintained therefor. Except to the extent that a portion of such capital account must be maintained for a reasonable reserve to cover future estimated costs of replacement and reconstruction of the capital improvements upon the Common Elements, any surplus remaining in said capital account at the end of any fiscal year of the Association shall be carried over to the next fiscal year and applied

by the Association in preparing its estimated annual budget for the next year to reduce the amount of such capital contributions required to be assessed against the Owners as an item of Common Expense for such year.

5. Determination of Annual Assessments and Collection and Disbursements of Proceeds.

The Association shall have the responsibility for payment of the Common Expenses in connection with the administration and management of the Condominium Property according to this Declaration and the By-Laws of the Association. The Board of Directors shall annually prepare an estimated annual budget for each fiscal year of the Association and shall determine and notify the Association and each Owner of the annual assessment for each Unit for such coming year.

6. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, special assessments for the purpose of defraying, in whole or in part, the costs or any portion thereof of any construction or reconstruction, repair or replacements of a capital improvement upon the Common Elements including the necessary fixtures and personal property related thereto, which the Association cannot pay out of the funds held in the capital account; provided that any such assessment shall have the assent of not less than two thirds percent (2/3%) of the voting rights of the Condominium as a whole cast by Owners voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Owners, including the Developer in the event it is the owner of record of a Unit, not less than ten (10) days nor more than sixty (60) days in advance of the meeting, which notice shall set forth the purpose of the meeting. Each Owner's share of any special assessment shall be in proportion to his fractional share of undivided interest in and to the Common Elements.

7. Date of Commencement of Annual Assessments and Due Dates. The annual assessments shall be established on a fiscal year basis and shall commence as to each Unit conveyed to an Owner on the date of each such conveyance, with adjustment for the first assessment according to the number of days remaining in the current six-month period. That portion of each such adjusted assessment attributable to the number of days remaining in the current six-month period of conveyance shall be due and payable at the time of such conveyance. Unless otherwise provided by the Board of Directors, one-half (1/2) of the annual assessment for each Unit shall become due and payable on the first day of June and January of each year during the assessment period. The Association shall, upon demand by any Owner or purchaser of a Unit prior to the completion of a voluntary sale or upon demand by any holder of a mortgage or other lien on any Unit at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether assessments on such Owner's Unit have been paid as of a specified date within ten (10) days after request therefor. A reasonable charge may be made by the Board for the issuance of such certificate, which shall be conclusive evidence of payment of any assessment therein stated to have been paid, and any person other than the Owner at the time of issuance of any such certificate who relies upon such certificate shall be entitled to rely thereon and his liability for such unpaid assessments shall be limited to the amounts set forth in such certificate.

8. Effect of Non-Payment of Assessments Payable Directly to the Association and Remedies of the Association. Any assessment which is not paid when due shall be delinquent. If a payment of an assessment for a Unit is not paid within ten (10) days after the due date, the Owner of such Unit shall be in default and the Association may declare the balance of the entire annual assessment for such Unit immediately due and payable. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of fifteen percent (15%) per annum, and the Association may bring suit to recover a money judgment for the unpaid assessment against the owner personally obligated to pay the same without waiving the lien, and/or file a lien claim against such Owner's Unit, in either of which events, interest, cost and attorney's fees equal to fifteen percent (15%) of the principal and interest due shall be added to the amount of such assessment as may then be due. The establishment of such lien and the satisfaction thereof shall be in accordance with the Act. Each Owner, by his acceptance of a deed to a Unit from the Developer or from any subsequent Owner of a Unit, vests in the Association or its agents the right and power to bring all actions against him personally for the collection of such charges as debt and file and foreclose a lien in a suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid-in the Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. Non-use of the Common Elements or abandonment of a Unit shall not constitute a defense against any action on account of any unpaid assessment.

9. Mechanic's Liens. Each Owner shall only be liable for the cost of repairs and replacements to his Unit, and for his proportionate share of the Common Expenses. In the event any mechanic's or other lien is filed which, in the opinion of the Board, may constitute a lien against the Property, the Common Elements, or any Unit, the Board may cause the Association to discharge such lien, and the Association shall thereupon assess each Owner or Owners in the amount of their proportionate share of the Association's expenses in discharging such lien, including any costs and attorney's fees incurred in connection therewith, such assessment to be secured by a lien on each Unit responsible for payment thereof in accordance with the Act, said lien to be enforced in accordance with the provision of the Act, Declaration, and By-Laws. No Unit Owner shall be liable for the lien of other Owners except as provided for by the Act and this Declaration.

10. Working Capital. In the discretion of the Board, a supplement to the capital fund may be established for the operation of the condominium equal to one-fourth (1/4) of the initial annual assessment prepared by the Developer. The amount due from each Unit will be collected and transferred to the Association at the time of closing of the sale of each Unit and maintained in the capital account.

XIII. ASSOCIATION

The operation and administration of the Condominium shall be performed by the Association, pursuant to the provisions of the Act, which shall be incorporated pursuant to the

Alabama Nonprofit Corporation Act, §§ 10-3-1 et seq., Code of Alabama, 1975, as amended, and which shall be organized and shall fulfill its functions pursuant to the following provisions:

1. Name. The name of the Association shall be: Pumpkin Hollow Association, Inc. (the "Association").

2. Powers. The powers and duties of the Association shall include those set forth in the Code of Alabama, the Declaration and the By-Laws of the Association, and, in addition, as follows:

- (a) Reconstruct, repair or refinish any improvement or portion thereof in any Access Easement (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);
- (b) Construct, reconstruct, repair, replace or refinish any of the Common Elements of the Condominium Property;
- (c) Replace injured and diseased trees or other cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (d) Perform all of its responsibilities of the Association under this Declaration or the Act;
- (e) Do all such other acts which the Board deems necessary to preserve and protect the Condominium Property and beauty thereof, in accordance with the general purposes specified in this Declaration; and
- (f) Develop and enforce rules and regulations governing use of the lake and other common areas.

3. Members. There shall be one member of the Association for each Unit within the Condominium Property. If a Unit is owned by more than one person, a designation will be filed by the Owner designating who will be the member of the Association. Change of membership in the Association shall be established by recording in the public records of Shelby County, Alabama, of a deed or other instrument establishing a record title to a Unit of the Condominium, and the delivery to the Association of a certified copy of such instrument, the Owner designated by such instrument thereby becoming a member of the Association. membership of the prior Owner shall be thereby terminated. The vote for a Unit shall be cast by the Owner thereof, or the duly authorized proxy of the Owner. Each Owner is entitled to one vote for each Unit he owns.

4. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors of either three (3) or five (5) directors, who shall be designated in the manner provided by the By-Laws.

5. Indemnification. Every director and every officer of the Association shall be indemnified by the Association against expenses and liabilities, in the manner provided for in the Articles of Incorporation of the Association and the By-Laws.

6. Fidelity Bond. The Association shall have the right to obtain fidelity bond coverage for any person or entity handling funds of the Association, including employees of professional managers, if any, retained by the Association.

7. Limitation of Liability. Notwithstanding the liability of the Association to maintain and repair parts of the Property, the Association shall not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association nor for the injury or damage caused by the elements or Owners or other persons.

XIV. INSURANCE

Insurance (other than title insurance) which shall be carried upon the Property shall be governed by the provisions of Article II, Section 10 of the By-Laws and the proceeds thereof shall be distributed in accordance herewith.

1. Association as Trustee; Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association, as Trustee for each of the Owners and their mortgagees as their interest may appear. The Association shall be herein sometimes referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Owners and their mortgagees, as follows:

(a) Common Elements and Proceeds. Proceeds on account of damage to Common Elements and facilities - an undivided share for each Owner, such share being the same as his undivided fractional interest in the Common Elements appurtenant to his Unit.

2. Distribution of Proceeds. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be used to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittance to Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

3. Association as Agent. The Association, as Insurance Trustee, is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon the payment of claims.

4. Insurance on Private Elements. The Association shall not be authorized to purchase insurance on Improvements or Single Family Residences or Private Elements within the Condominium Property, such insurance coverage to be the sole responsibility of the Owner. Each Owner shall maintain insurance coverage on the Private Elements and Single Family Residence on the Unit and keep a current certificate of insurance on file with the Association.

XV. CONDEMNATION

In the event of condemnation of all or a portion of the Condominium Property, the disposition of proceeds of the award shall be governed by the following provisions:

1. Entire Property. In the event of condemnation of the entire Condominium Property, the Association shall not be entitled to receive the proceeds of the award; but, rather, each Owner shall be entitled to receive an award for his separate Unit, all Improvements thereon, and the value of his undivided interest in the Common Elements of the Condominium Property.

2. Partial or Entire Taking of Private Elements. Any award paid solely for the taking of all or a portion of the Private Elements within a Unit shall be paid to the Owner and his mortgagee, as their interest may appear. In the event a condemnation action results in the taking of an entire Unit, such that it is not feasible to construct a Single Family Residence thereon, the Association shall be authorized to amend this Declaration so as to reduce the fractional interest in the Common Elements of the remaining Units proportionately and the Unit which was taken by condemnation shall, after such amendment, no longer be part of the Condominium Property.

3. Partial Taking of Common Elements. The portion of any award allocable solely to the Common Elements shall be retained by the Association, which shall treat the same as insurance proceeds and proceed pursuant to Section XVI hereof to reconstruct and restore the affected portion of the Property if the Board determines that such is feasible.

XVI. RECONSTRUCTION OR REPAIR AFTER CASUALTY

If any part of the Condominium Property shall be damaged by casualty, the same shall be constructed or repaired in accordance with this paragraph.

1. Common Elements and Facilities. If the damaged improvement is a Common Element, the damaged property shall be reconstructed, replaced or repaired.

(a) Any such reconstruction or repair must be substantially in accordance with the Plans, specifications, and the like for the original Common Element or as the Common Elements was last constructed.

(b) Immediately after a casualty causing damage to the Common Elements, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair so as to place the damaged property in condition as good as that before the casualty.

(c) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessment shall be made against all Owners in sufficient amounts to provide funds to repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the Owners in sufficient amount to provide funds for the payment of such costs. Such assessments for reconstruction or repair of damage to Common Elements shall be in proportion to the Owner's share in the Common Elements.

(d) The funds for payment of costs of reconstruction and repair after casualty, for which the Association is responsible, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from assessments against Owners, shall be disbursed in payment of such cost.

2. Repair or Reconstruction of Damage to Private Elements. All damage or destruction to the Improvements on each Unit shall be repaired or reconstructed as soon as practical by the Owner after determination of the extent of damage or destruction and assessment by the Owner of the cost of repair and reconstruction; but, in any event, all such reconstruction or repair activities shall be commenced within 90 days after the occurrence of the event giving rise to the damage or destruction. All reconstruction activity once commenced by an Owner shall be completed within a 1-year period.

XVII. NOTICE OF LIEN OR SUIT

1. Notice of Lien. An Owner shall give notice to the Association of every lien upon his Unit, including taxes and special assessments, within five (5) days after the Owner's receipt of notice thereof.

2. Notice of Suit. An Owner shall give notice to the Association of every suit or other proceeding which may affect the title of his Unit, such notice to be given within five (5) days after the Owner received knowledge thereof.

3. Failure to Comply. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

XVIII. COMPLIANCE AND DEFAULT

Each Owner shall be governed by and shall comply with the terms of the Act, Declaration, Articles of Incorporation, By-Laws and Rules and Regulations adopted pursuant thereto and said documents and Regulations as they may be amended from time to time. A default shall entitle the Association or other Owners to the following relief in addition to the remedies provided by the Act:

1. Negligence. An Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, negligence or carelessness or by that of any member of his family or his or their guests, employees or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

2. Cost and Attorney's Fee. In any proceeding arising because of an alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the Court.

XIX. COVENANT AGAINST PARTITION

There shall be no judicial or other partition of the Property, any part thereof or any Unit, nor shall Developer, any Owner or any person acquiring any interest in the Property or any part thereof seek any such partition unless the Property has been removed from the provisions of the Act in accordance with the terms thereof.

XX. AMENDMENT

1. Amendment - By Developer. Amendments to this Declaration for the purpose of correcting drafting or typographical errors or conforming the documents to the requirements of the Act, or insuring conformity of the Private and Common Elements, as built, to the Declaration, the Plans and the By-Laws shall be made by the Developer as and when necessary. The Developer for the period ending at the earlier date of the sale of all of the Units within the Condominium or the end of the Control Period, reserves an option to change the location of the lateral boundary lines of all contiguous Units owned by the Developer. the option herein reserved shall partially abate upon the sale of each Unit within the Condominium Property. The option herein reserved, if exercised, shall be accomplished by the Developer filing on the Probate Court records of Shelby County, Alabama, an amendment to this Declaration stating the purpose of the amendment and attaching to the amendment an amended Plan or Plat for the Condominium showing the change in the location of one or more lateral Unit boundary lines. No such change in the location of any lateral boundary line shall affect the undivided interest in the Common Elements allocated to each Unit by this Declaration. In order to implement the reservation of this option, there is hereby reserved to the Developer an irrevocable power of attorney, coupled with an interest, for the purpose of relocating each Unit lateral boundary lines in accordance with the provisions of this Declaration and particularly this Section thereof and to execute acknowledge and deliver such instruments, amendments, amended Plans or Plats as may from time to time be required in order to accomplish the purpose and intents of this Section.

2. Amendment - Other. Amendments to this Declaration, other than those provided for in Section XX-1 above, which are authorized by this Declaration and the Act, shall be proposed and adopted in the following manner:

(a) Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered.

(b) Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the membership of the Association, and after being proposed and approved by one of such bodies, it must be approved by the other. Directors and members not present at the meeting considering the amendment may express their approval in writing. Such approvals must be by not less than a majority of Directors, and unless otherwise specified in this Declaration or the Act, by not less than three-fourths (3/4) of the total vote of the Association.

(c) Recording. A copy of each amendment provided for in this paragraph shall be certified by the Board of Directors of the Association as having been duly adopted and shall be effective when recorded in the public records of Shelby County, Alabama.

3. Amendment by Individual Owners and Developer. The Individual Owners and Developer may amend this Declaration by unanimous consent at any time, and in any respect, so long as they are the Owners of all of the Units.

4. Termination. The Condominium may be terminated and the Condominium Property removed from the provisions of the Act as set forth in Section 35-8-20 of the Act.

XXI. PHASED DEVELOPMENT

1. General Plan. Developer and the Individual Owners reserve the right to develop the Condominium Property in two (2) or more phases containing up to a total of sixty (60) Units. Developer and the Individual Owners may develop the two (2) or more phases by establishing additional Units upon either common element Land, excluding the dam, roadways and other improvements reflected on the plat appearing in Map Book 18, pages 3-8 Probate Office aforesaid, or by adding to the Condominium Units established upon one or more parcels of the Subsequent Phase Land added to the Condominium Property by amendment to this Declaration.

There may be one or more such subsequent phase Units (not to exceed 60) and Improvements constructed on the Subsequent Phase Land and submitted to Condominium Ownership under this Declaration.

2. Effect on Shares. Each Owner's ownership interest in the Common Elements and share of the Common Surplus and Common Expenses as set forth in Sections V and VI to this Declaration is subject to dilution if all or any portion of the Subsequent Phase Land and Improvements are submitted to Condominium Ownership under this Declaration, the extent of the dilution to depend upon the number of additional Units added to the Condominium. The

maximum dilution shall be to decrease the fractional interest in the Common Elements and share in the Common Expenses and Common Surplus of each Owner from one-forty second (1/42) to one-sixtieth (1/60). In the event fewer Units are constructed and submitted to Condominium Ownership under this Declaration, the dilution shall be reduced to reflect the fraction the numerator of which shall be one (1) and the denominator of which shall be the total of Units constructed and submitted to Condominium Ownership under this Declaration.

3. Developer's Option. Any Improvements on the Subsequent Phase Land are to be constructed solely at Developer's option. No Land described in Exhibit A or Improvements thereon as described in this Declaration, or the Plans shall be required to be conveyed to the Association or submitted to Condominium Ownership under this Declaration unless Developer elects to do so by amendment to this Declaration.

4. Association. When Phase I of the Condominium is submitted to Condominium Ownership the Owners of the Units will be the members of the Association with the Owners of each Unit having one vote. Upon submission of all Units to be constructed on the Subsequent Phase Land to Condominium Ownership under this Declaration there will be not more than sixty (60) members each having one vote. In the event fewer than eighteen (18) Units are constructed on the Subsequent Phase Land and submitted to Condominium Ownership under this Declaration there will be proportionately fewer members of the Association, each having one vote.

XXII. CONSENT

Each Owner shall be deemed by his acceptance of a deed to a Unit to have consented to the powers of amendment herein reserved by Developer and to any amendments previously or hereafter executed by Developer pursuant thereto. Such power shall be coupled with an interest so that the aforesaid power of attorney is irrevocable. Each Owner shall further be deemed by his acceptance of a deed to a Unit to have appointed Developer his attorney-in-fact to give, execute and record the consent of the Owner to any and all amendments to this Declaration which Developer may wish to exercise pursuant to the powers herein reserved.

XXIII. PERIOD OF DEVELOPER'S CONTROL

In view of Developer's financial commitment to the Condominium Property, Developer's obligations as initial owner of the Units to pay the expenses of the Property and Developer's need to insure the success of the Project, the Developer hereby reserves unto itself the right to manage all of the affairs of the Condominium and all decisions of the Association, the exclusive right to elect the directors of the Association (who need not be Owners) and the right to amend the By-Laws of the Association until 75% of the Units in the Condominium Property have been conveyed to Unit purchasers, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur. This period of time shall be known as the "Control Period". The Developer may terminate management rights and responsibilities by relinquishing control of the Association in writing to the Owners at any time prior to the expiration of said Control Period. During said Control Period, the Developer shall be exempt from payment of

any assessments provided for in this Declaration; and shall have the sole and exclusive right to take all actions and do all things on behalf of the Association. During said Control Period, the Developer shall pay all Common Expenses and as reimbursement therefor and as compensation for its management services, Developer shall be entitled to receive and retain all of the assessments payable by the Owners during the said Control Period, and Developer shall have all of the rights of the Association to levy and enforce payment of assessments. During said Period, Developer shall not be required to assess or create any reserves and at the termination of the Control Period and the assumption of the operation of the Association by the members, Developer shall not be required to render an accounting of income and expenses incurred during said Control Period.

XXIV. TERMINATION

The Condominium may be terminated in the following manner:

1. **Agreement.** The termination of the Condominium may be effected by unanimous agreement of the Owners and the holders of all liens of record affecting any of the Condominium Property which agreement shall be evidenced by written instrument executed in the manner required for conveyance of land. The termination shall be effective when such instrument is recorded in the public records of Shelby County, Alabama.
2. **Assessments.** Any unpaid sums due the Association shall survive any termination of the Condominium and shall continue to be an obligation of the Association and the Owners or either of them and shall continue to be a lien against the Condominium Unit, or the undivided interest of the Owners in the Condominium Property, until paid.
3. **Shares.** Upon termination of the Condominium, unless otherwise provided for in the agreement of termination, all Condominium Property owned by the Owners upon the establishment of the Condominium shall be vested in the Owners in the same manner and percentage as such properties were owned upon its establishment of the Condominium.

XXV. MISCELLANEOUS PROVISIONS

1. **Proportionate Changes in Common Elements and Common Surplus.** In the event any one or more of the Units are not rebuilt by reason of loss as a result of condemnation, casualty or otherwise, and therefore the number of Units is reduced, then the proportionate share of the common expense and of the common surplus of each Unit shall be increased by adding to each remaining Unit their proportionate fractional ownership out of the fractional ownership of the Units so reduced.
2. **Association's Acceptance of Terms.** The Association, by its execution of the Declaration, approves the foregoing and all of the covenants, terms and conditions, duties and obligations of this Declaration and Exhibits attached hereto. The Owners, by virtue of their acceptance of the Deed of conveyance as to their Units, and other parties, by virtue of their

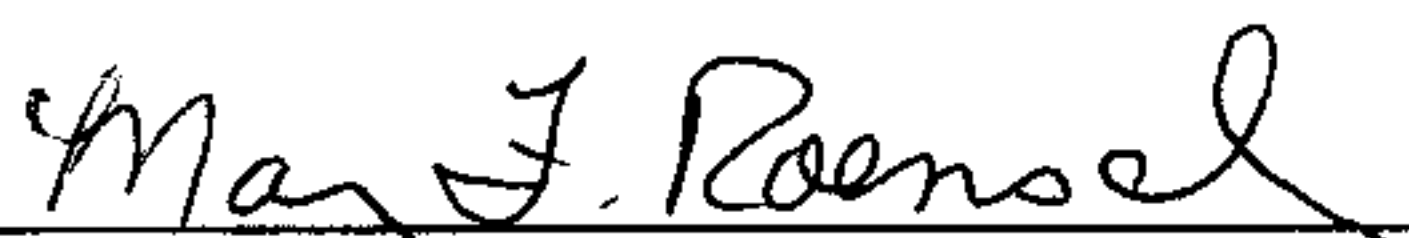
occupancy of Units, hereby approve the foregoing and all of the terms and conditions, duties and obligations set forth in the Condominium Documents.

3. Blanket Mortgage. The entire Condominium Property, or some or all of the Units included therein, may be subject to a single or blanket mortgage constituting a first lien thereof created by a recordable instrument duly executed by all of the Owners of the Units affected thereby, and any Unit included under the lien of such mortgage may be sold or conveyed subject thereto. An instrument creating any such mortgage shall provide a method whereby any Owner may obtain a release of his Unit from the lien of such mortgage and a satisfaction and discharge in recordable form upon payment to the holder of the mortgage of a sum equal to the proportionate share attributable to his Unit of the then outstanding balance of unpaid principal and accrued interest and any other charges then due and unpaid.

4. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Condominium Project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

5. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration and the By-Laws shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, Mary F. Roensch, E. Burns Roensch, Jr., Thomas A. Ritchie, Brenda M. Hackney and Pumpkin Hollow Development Corp., have caused this instrument to be executed on the day and year first written above.



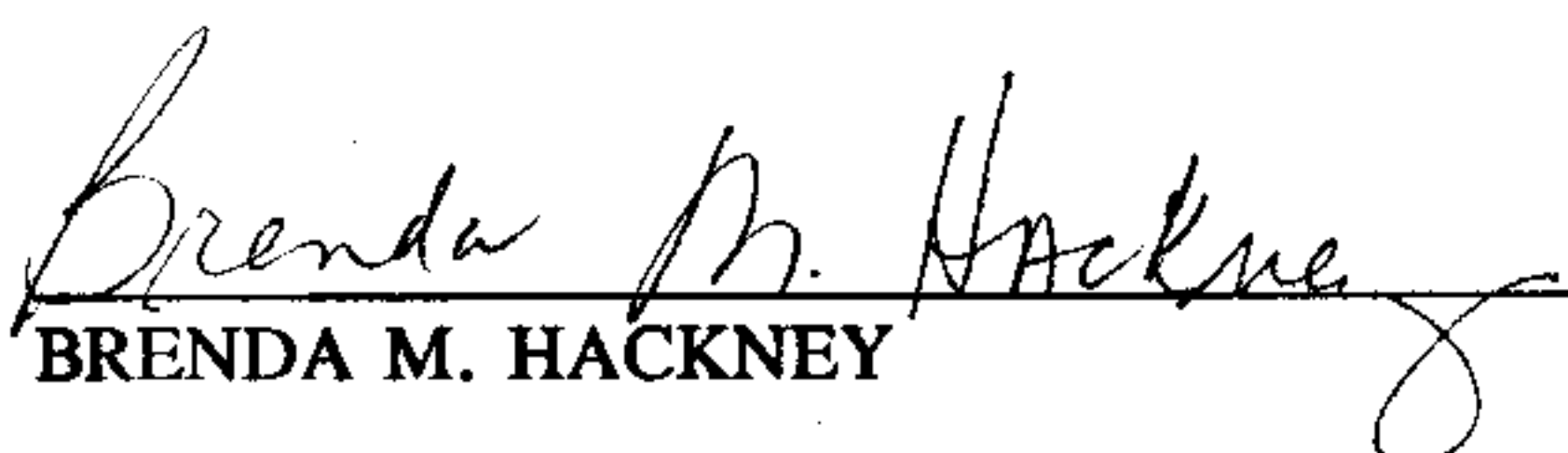
MARY F. ROENSCH



E. BURNS ROENSCH, JR.



THOMAS A. RITCHIE



BRENDA M. HACKNEY

ATTEST:

PUMPKIN HOLLOW DEVELOPMENT CORP.

Mary F. Roensch
Its: Secretary

By: Mary F. Roensch
Its President

APPROVED:

ATTEST:

PUMPKIN HOLLOW ASSOCIATION, INC.,
a not-for-profit corporation

Mary F. Roensch
Its: Secretary

By: Mary F. Roensch
Its President

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Mary F. Roensch, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 31 day of JANUARY, 1994.

Dianne Mottley
NOTARY PUBLIC

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that E. Burns Roensch, Jr., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 3rd day of February, 1994.

Betty Little Carter
NOTARY PUBLIC

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Thomas A. Ritchie, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 7th day of February, 1994.

Sharon Jordan
NOTARY PUBLIC

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Brenda M. Hackney, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 7th day of February, 1994.

Sherry D. Lewis
NOTARY PUBLIC

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Mary F. Roensch, whose name as President of Pumpkin Hollow Development Corp.,

an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and official seal this 31 day of January, 1994.

Diane Matherly
NOTARY PUBLIC

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Mary F. Roensch, whose name as President of Pumpkin Hollow Association, Inc., a not-for-profit corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such officer and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and official seal this 31 day of January, 1994.

Diane Matherly
NOTARY PUBLIC

EXHIBIT A

**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM OF
PUMPKIN HOLLOW, A CONDOMINIUM**

Legal Description of Real Estate that may be subject to the Condominium Declaration
in the future by Pumpkin Hollow Development Corp.

The Northwest 1/4 of the Southwest 1/4 of Section 16, Township
18 South, Range 2 East, Shelby County, Alabama. Containing 40
acres, more or less.

Inst # 1994-04159

02/08/1994-04159
08:34 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
036 MJS 90.00