

**AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR SEBASTIAN COVE SUBDIVISION**

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS IS FOR SEBASTIAN COVE SUBDIVISION**, made and published this 11th day of February, 2004 by **SEBASTIAN COVE HOMEOWNERS ASSOCIATION, INC.**, a corporation organized under the laws of the state of Georgia (hereinafter "Association").

**WHEREAS**, members of the Association are the owners of certain real property situated, lying and being in Land Lots 349, 350, 351, 352, 368, 369, 370, 371, 376, 377, 378, and 383 of the Third Land District of Putnam County, Georgia, said Property being known as Section One, Section Two, Section Three, Section Four, Section Five, Section Six, Section Seven, Section Eight and Section Nine of **SEBASTIAN COVE SUBDIVISION**; and

**WHEREAS**, the Declaration of Covenants, Restrictions and Easements for **SEBASTIAN COVE SUBDIVISION** dated January 20, 1986, and recorded in Deed Book 6-N, pages 40-61, Office of the Clerk of Superior Court of Putnam County, Georgia, records provide for the amendment of said Declaration under Article XI, General Provisions Section 7; and

**WHEREAS**, the Owners of the lots in **SEBASTIAN COVE SUBDIVISION** desire to modify, amend and restate and have voted in accordance with the Declaration to modify, amend and restate the Declaration as originally recorded in Deed Book 6-N, page 40-61, as amended at Deed Book 118, pages 211-212, at Deed Book 137, pages 192-193, at Deed Book 243, pages 131-132; at Deed Book 253, pages 306-328, at Deed Book 338, pages 649-652.

**NOW, THEREFORE**, for and in consideration of the premises and of the benefits to be derived by the Association, its successors and assigns, and each and every subsequent Owner of any Lot in Sebastian Cove, the Association does hereby modify, amend, establish, promulgate, declare, and restate the following covenants, conditions, restrictions and easements to apply to all lots and Property in **SEBASTIAN COVE SUBDIVISION** including Section One, Section Two, Section Three, Section Four, Section Five, Section Six, Section Seven, Section Eight and Section Nine of **SEBASTIAN COVE SUBDIVISION**, as the same shall be held transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

**ARTICLE I**  
**DEFINITIONS**

**Section 1.** "ARCHITECTURAL CONTROL COMMITTEE," herein after referred to as the "ACC," shall mean and refer to those Persons appointed by and subordinate to the Board to serve as members of said committee.

**Section 2.** "ASSOCIATION," shall mean and refer to the SEBASTIAN COVE HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

**Section 3.** "BOARD," shall mean and refer to the Board of Directors of the Association, including the Directors at Large.

**Section 4.** "COMMON AREA," shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

**Section 5.** "COMMON EXPENSES," shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the By-Laws and Articles of Incorporation of the Association.

**Section 6.** "DECLARATION," shall mean the covenants, conditions, restrictions and easements and all other provisions hereinafter set forth in this entire document, as may from time to time be amended.

**Section 7.** "LAKE," shall mean and refer to Lake Oconee.

**Section 8.** "LOT," shall mean (a) any subdivision lot located in Section One thru Nine of SEBASTIAN COVE SUBDIVISION; (b) any subdivision lot subject to this Declaration in the future with the approval and consent of the Association.

**Section 9.** "OWNER," shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot which is part of the property, but excluding those having such interest merely as security for the performance of an obligation.

**Section 10.** "PERSON," shall mean and refer to a natural person, corporation, partnership, association, trust, or other legal entity or combination thereof.

**Section 11.** "PROPERTY," shall mean and refer to the real property located in Sebastian Cove Subdivision including Sections One thru Nine together with such additional real property as may from this time be made subject to this Declaration with the consent of the Association.

**Section 12.** "STRUCTURE," shall mean and refer to: (a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration, any building or part thereof, garage, aircraft hanger, porch, gazebo, shed, greenhouse or bathhouse, coup or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; (b) any excavating, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow or surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (c) any change in grade at

any point on a Lot of more than six (6) inches, whether or not subsection (b) of this section applies to such change.

**ARTICLE II**  
**ARCHITECTURAL CONTROL COMMITTEE**

**Section 1. PURPOSE, POWERS AND DUTIES:** The purpose of the ACC is to assure that plans submitted for approval for the installation, construction or alteration of any Structure on any Lot are in conformity, harmony, location and overall quality with the subdivision standards. The ACC shall have all the powers and duties to do everything necessary, suitable, convenient or proper for the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any structure on any Lot. Decisions of the ACC are to be forwarded to the Board within five (5) days after a meeting.

**Section 2. MEETINGS:** The ACC shall hold meetings at a time and place as established by the ACC. At each meeting, the presence of a majority of the members, then in office, shall constitute a quorum for the transaction of business. If the active membership of the ACC has fallen below three (3) members, the Board may appoint sufficient numbers of members to bring the ACC back to a minimum staff level of three.

**Section 3. SUBMISSION OF PLANS AND SPECIFICATIONS:** No structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications shall have been first submitted to and approved, in writing, by the ACC. Such plans and specifications shall be provided in duplicate and shall be in such form and shall contain such information as may be reasonably required by the ACC, including, without being limited to:

- (a) A site plan showing the location of all proposed and existing Structures on the lot, including set backs, open space, driveways, walkways and parking spaces including the number thereof.
- (b) Foundation plans.
- (c) Floor plans.
- (d) Wall sections.
- (e) Exterior elevations of all proposed structures and alterations to existing Structures, as such Structures will appear after filling and landscaping are completed.
- (f) Specifications showing the nature, kind shape and height, materials, basic exterior finish and colors of all proposed Structures and alterations.
- (g) The front, side and rear elevation of the Structure or alteration.

**Section 4. OBLIGATION TO ACT:** The ACC shall take action on any plans and specifications submitted within forty-five (45) days after receipt. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure, by the ACC, to take action within forty-five (45) days of the receipt of the plans and specifications shall be deemed approval of such plans and specifications.

**Section 5. APPROVAL/DISAPPROVAL OF PLANS AND SPECIFICATIONS:**

(a) The ACC shall have the right, authority and obligation to approve or disapprove any plans and specifications submitted to it. The approval or disapproval may be based on any grounds, including purely aesthetic considerations that shall be deemed sufficient.

(b) In extraordinary circumstances and through a sixty-six and two-thirds percent (66 2/3%) affirmative vote, the Board may temporarily assume all the rights, authority and responsibilities of the ACC.

(c) All the plans and specifications that are then approved, or conditionally approved, shall be maintained as a permanent record with the ACC. A copy of such documents bearing such approval, in writing, shall be returned to the applicant.

(d) Approval of such documents relating to any Lot or Structure shall be considered as final for that Lot or Structure. Such approval may not be rescinded or revoked thereafter providing there has been adherence to and compliance with the submitted and approved documents and other conditions attached to the approval.

(e) Neither the Association nor any member of the ACC shall be responsible or liable in any way for any defects contained in the plans, engineering design, specifications, structural materials or workmanship done relative to the approval of the documents by the ACC. Nor shall they be liable for any mistakes in judgment, negligence, misfeasance, or nonfeasance arising out of the approval on any documents.

(f) By the submission of documents to the ACC, every Owner of any Lot releases and agrees to hold harmless and to defend the Association and any member of the Board or ACC from any such alleged liability, claim, and/or damage.

**Section 6. APPEALS:** Any applicant may, within ten (10) days after receipt of notice of any decision that is deemed unsatisfactory, file a written request to have the matter in question reviewed by the Board. Upon the receipt of such a request, the matter will be promptly reviewed by the Board, but no later than thirty-two (32) days after receiving the request. The decision of a majority of the members of the Board with respect to such a matter shall be final and binding on the ACC and the applicant.

**Section 7. ASSISTANCE TO THE ACC:** By majority vote of its members, the ACC may solicit assistance of a person or persons to review, investigate, inspect, and make recommendations to the ACC with respect to any matters over which the ACC has authority.

**Section 8. RIGHT OF INSPECTION:** The Association, its agents and authorized representatives, including the ACC shall have the right, without obligation, during reasonable hours, to enter upon and inspect any Lot and unoccupied Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration. The Association shall not be deemed to have committed an act of trespass or other wrongful act solely by reason of entry for inspection.

**Section 9. VIOLATIONS:**

(a) If any Structure shall be commenced, erected, placed, maintained or altered on any Lot, other than in accordance with the ACC approved plans, such acts, materials and alterations shall be in

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violation of these covenants.

(b) If the ACC believes such violations have occurred, the ACC shall, with Board approval, be empowered to enjoin or remove any construction. Any costs and expenses incurred by the Association and the ACC in enjoining and/or removing any construction or improvements shall, with Board approval, be reimbursed by the owner(s), and if not paid within ninety (90) days, be filed as a lien against the subject property.

### **ARTICLE III** **MEMBERSHIP, VOTING RIGHTS, SUSPENSION OF MEMBERSHIP**

**Section 1. MEMBERSHIP AND VOTING RIGHTS:** Every Owner of a Lot, which is subject to this Declaration, shall be a mandatory Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Membership shall be a right and privilege that belongs to and may not be separated from ownership of any Lot that is subject to this Declaration. Membership shall pass automatically to an Owner's successor-in-title to the Lot. Each Owner, who does not owe monies to the Association, shall be entitled to one (1) vote for each Lot owned.

**Section 2. AUTHORITY AND ENFORCEMENT:** The Property shall be used for those uses and purposes set out in this Declaration. The Board of Directors shall have the authority to make, publish, and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and the Common Property: provided, copies of all such rules and regulations shall be furnished to all Owners and occupants upon request. Any rule or regulation may be repealed by the affirmative vote or written consent of a majority of the total Association vote at an annual or special meeting of the membership. Every Owner and occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations.

**Section 3. FINES:** The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, suspend an Owner's right to vote and/or to use the common Property for violation of any duty imposed under the Declaration, the By-Laws, or any Association rules and regulations; provided, however, nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Lot. Any imposed fines must be the lesser of an amount equal to the cost estimate to correct such violation or two thousand dollars (\$2,000). If any Owner or occupant violates the Declaration, Bylaws or Association rules and a fine is imposed, the fine may be imposed against the Owner and/or occupant, subject to Subsection (a) below. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Finning and Suspension Procedure: The Board shall not impose a fine or suspend the right to vote or to use the Common Property, unless and until the Association has sent or delivered written notice to the violator as provided in subsection (i) below. However, compliance with this Section shall not be required for late charges on delinquent assessments or for suspension of voting rights if an Owner is shown on the Association's records to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to vote shall be automatic.

(i) Notice: If any provision of the Declaration or Bylaws or any Association rule is violated, the

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Board shall send the violator written notice identifying the violation and fines(s) and/or suspension(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or the fine(s) and/or suspensions. Fines and suspensions may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine(s) and/or suspension(s).

(ii) Hearing: If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing within two (2) weeks affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines.

(b) Additional Enforcement Rights: Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations or performing maintenance on any Lot upon a failure by the Lot Owner to do so) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in this Article. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the Bylaws, or the rules and regulations. Except in emergency situations or situations involving repeat violations for which notice hereunder already has been given, or as otherwise specified in the Declaration, entry onto a Lot to abate or remove a violation shall be made only after ten (10) days written notice to the violating Lot Owner. All costs of self-help or of otherwise enforcing the Declarations, Bylaws or Association rules, including reasonable attorney's fees, shall be assessed against the violating Lot owner.

## **ARTICLE IV** **PROPERTY RIGHTS**

**Section 1. MEMBER'S EASEMENT OF ENJOYMENT**: Subject to the provisions herein, every Member of the Association shall have a right and easement of use and enjoyment in and to the Common Area (including, without limitation, the right of pedestrian, but not vehicular, access, ingress and egress to and from his Lot over those portions of the Common Area designated for such purposes and the right of use of such Recreational facilities as may be erected and maintained by the Association for such purposes), which rights and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) The right of the Association to adopt and publish rules and regulations governing the use of the Common Area.
- (b) The right of the Association to borrow money for the purpose of improving the Common Area of

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any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of the Owners, who are eligible to vote under Article III, Section 1, of sixty-six and two-thirds percent (66 2/3%) of the Lots to give as security a mortgage conveying all of any portion of the Common Area. The lien and encumbrances of any such mortgage, however, shall be subject and subordinated to all rights, interests, easements and privileges herein reserved or established for the benefit of the Association, any Owner, or the holder of any mortgage, irrespective of when executed, given by Association or any Owner.

(c) The rights of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

**Section 2. DELEGATION OF USE:** Any Owner may delegate, in accordance with the by-laws, their right of use and enjoyment in and to the Common Area, including the improvements thereon, to the members of their immediate family, tenants, and house guests, subject to such regulations as may be established by the Association. The Clubhouse is provided for social functions sponsored by the Association, other Association Membership groups and individual members. All activities must be sponsored and attended by one or more Members and requires approval by the Board or their designated representative. Priority for use is Association functions, Association Membership group functions and individual use in that order. Use of the clubhouse for the following; but not limited to, commercial purposes on a recurring basis or for an on-going business activity is not permitted.

**Section 3. NO PARTITION:** There shall be no judicial partition of the Property or any part hereof, nor shall any Person acquiring any interest in the Property or any part hereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

## **ARTICLE V** **ASSESSMENTS**

**Section 1. PURPOSE OF ASSESSMENTS:** The Association shall have the power to levy assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots and for maintenance of the common areas, as may be authorized by the Board.

**Section 2. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS:** Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) annual assessments, and (ii) special assessments for capital improvements, including but not limited to reasonable fines. Such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. All such assessments, together with charges, interest, costs and reasonable attorney's fees actually incurred, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall be the personal obligation of the Person who was the Owner of such Lot at the time when

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the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance. The association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Putnam County Georgia records evidencing the lien created under this Declaration. Assessments shall be paid in such manner and on such dates as may be fixed by the Board. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever, including, but not limited to, nonuse of the Common Property, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

**Section 3. COMPUTATION OF ANNUAL ASSESSMENTS:** It shall be the duty of the Board at least thirty (30) days prior to the Association's Annual meeting to prepare a budget covering the estimated Common Expenses of operating the Association for the coming year, such budget to include a capital contribution or reserve account in accordance with the capital needs of the Association. The budget and the proposed annual assessment to be levied against each Lot shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The annual assessment shall be equally divided among the Lots so that the annual assessments shall be the same for each Lot. The budget and the annual assessments shall become effective unless disapproved at a duly called Association annual meeting by a vote of a majority of the Association membership provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting. If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget in effect for then current year shall continue for the succeeding year. However, the Board may propose a new or adjusted budget at any time during the year by causing the proposed budget and assessment to be delivered to the members at least ten (10) days prior to the proposed effective date thereof. Unless a special meeting is requested by the members, as provided in the Bylaws for special meetings, the new or adjusted budget and assessment shall take effect without a meeting of the members. The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

**Section 4. SPECIAL ASSESSMENTS:** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for Common Expenses, applicable to that year only, provided that any such assessment shall have the assent of the Owners, who are eligible to vote under Article III, Section 1, of sixty-six and two-thirds percent (66 2/3%) of the Lots voting in person or by proxy at a meeting duly called for such purpose.

**Section 5. UNIFORM RATE OF ASSESSMENT:** Annual and special assessment must be fixed at a uniform rate for all Lots and will be collected on an annual basis.

**Section 6. DELINQUENT ASSESSMENTS:** Assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. If assessments, fines or other charges, or any part thereof, remain unpaid more than thirty (30) days after the assessment payment first becomes delinquent, the assessment shall bear interest from the date of delinquency at a set rate per annum up to the maximum legal rate. The Association, acting through the Board, may place a lien on the property pursuant to the collection of the assessment and all associated interest and fees. The Association, acting through the Board, may also institute suit to collect all amounts due pursuant to the provisions of the Declaration and the Bylaws, including reasonable attorney's fees actually incurred, and suspend the Owner's and occupant's right to use the Common Property (provided, however, the Board may not deny ingress or egress to or from the Lot).

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**Section 7. SUBORDINATION OF THE LIEN TO FIRST MORTGAGES:** The lien for the assessments provided for herein shall be subordinated to the lien of any first mortgage, first purchase money security deed or security deed representing a first lien of said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments that became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 8. EXEMPT PROPERTY:** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

(a) All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority devoted to public use

(b) All Common Areas

(c) All properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

**Section 9. CAPITAL BUDGET AND CONTRIBUTION:** The Board may prepare an annual or multi-year capital budget that shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided for above.

**Section 10. STATEMENT OF ACCOUNT:** Any Owner, Mortgagee, or a person having executed a contract for the purchase of a lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against such Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars as a prerequisite to the issuance of such statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein. The Association may require an additional fee not to exceed twenty five (\$25.00) dollars if the Association provides a copy of the Declaration and Bylaws to any such person in connection with a closing or otherwise upon request.

**Section 11. SURPLUS FUNDS AND COMMON PROFITS:** Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payments of Common Expenses shall be credited to the next assessment chargeable to the Owners or added to the Association's reserve account.

## **ARTICLE VI** **MAINTENANCE**

**Section 1. ASSOCIATION'S RESPONSIBILITY:** Except as otherwise provided for herein, the

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Association shall maintain and keep in good repair all portions of the Common Area and improvements thereon. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of: (a) all Association owned roads, driveways, walks, parking areas and buildings and other landscaping situated within or upon the Common Area, (b) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area, and (c) all trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area. Notwithstanding the above, all dirt roads owned by the Association as of the date of this Amended and Restated Declaration might continue to be maintained by the Association as dirt roads.

**Section 2. OWNER'S RESPONSIBILITIES:** Each owner of an improved Lot shall keep and maintain the exterior of any and all improvements located thereon in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing, and caring for roofs, gutters, downspouts, building surfaces, trees shrubs, grass, walks and other exterior improvements. Should any Owner(s) of an improved Lot fail to maintain their Lot or the improvements thereon as set forth herein above, the Board, its agents and representatives, may, after thirty (30) days written notice to the Owner of such improved Lot shall enter upon, but not be obligated to, their improved Lot for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, for removing garbage or trash, or for performing such exterior maintenance as the Board, in the exercise of its sole discretion, deems necessary or advisable. Such Owner shall be personally liable to the Association for the direct and indirect costs of such maintenance, which costs shall be added to and become part of the assessment to which such Owner and their Lot is subject. Although notice given as herein provided shall be sufficient to give the Board, and its agents and representatives, the right to enter upon Lot and perform such maintenance, entry for such purpose shall be only between the hours of 9:00 a.m. and 5:00 p.m. on any day except holidays and Sunday. The provisions hereof shall not be construed, however, as an obligation on the part of the Board to mow, clear, cut or prune any Lot, to provide garbage or trash removal service or perform such exterior maintenance.

## **ARTICLE VII** **EASEMENTS**

**Section 1. EASEMENTS:** There is hereby created in favor of the Association, an easement upon, across, over, through and under all of the common Areas for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, gas, telephone, electricity, television, cable, or communication lines and systems. An easement is further granted to the Association, its officers, agents, and employees and any management company retained by the Association, to enter in or to cross over the Common Area and Lots, to inspect and to perform the duties of maintenance and repair of the Common Areas and Lots, as provided for herein. Notwithstanding anything to the contrary contained in this Section, no sewer, electrical lines, water lines or other utilities may be installed or relocated on the Property except as approved by the Association or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement in specific recordable document, the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof. The Association also reserves the right to prepare sloping banks, cuts or fill on three (3) to one (1) slope, on all streets and roads. Drainage flow shall not be obstructed nor diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on the Plat, on any amendment thereto, of the Property or a portion thereof.

**Section 2. EASEMENTS FOR ASSOCIATION:** There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any-management

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company retained by the Association, to enter upon the Common Area and the Lots to perform their respective duties.

### **ARTICLE VIII** **GENERAL COVENANTS AND RESTRICTIONS**

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

**Section 1. RESIDENTIAL USE:** All Lots shall be restricted exclusively to single-family residential use. No Lot, or any portion thereof, shall at any time be used for any commercial, business or professional purpose; provided, however, that nothing herein shall be construed to prohibit or prevent the Association from using a Lot owned by the Association for the purpose of carrying on business related to the Association. This provision shall not prevent residents from maintaining and using private offices at their dwelling provided such use is incidental to the primary residential use of the Lot and compliance is maintained with the other provisions of this Declaration.

**Section 2. COMMON AREA:** The Common Area shall be used only by the Owners, family members, resident managers, tenants, house guests and licensees for access, ingress to and egress from their respective Lots and for such other purposes as may be authorized by the Association.

**Section 3. NUISANCES:**

(a) No unlawful, noxious or offensive activities shall be carried out on any Lot, street or upon the Common Area, nor shall anything be done therein or thereon which, constitutes a nuisance, causes unreasonable noise or disturbance to others or unreasonably interferes with Owner's enjoyment of their Lots and/or Common Area.

(b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon an Owner's Lot so as to render the use unsafe, unsanitary, unsightly or offensive.

(c) No offensive noise or nuisance shall be permitted. No exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes shall be located, used or placed on the Property.

**Section 4. COMBINATION OR RESUBDIVISION OF PROPERTY:** No more than two (2) adjoining lots, as defined in the initial subdivision survey, may be considered for combination. Further, lot combinations will be authorized for only three basic reasons as follows:

(a) To provide sufficient frontage, as required by Georgia Power, for a dock and seawall on the lake

(b) To provide relief from physical characteristics or restrictions pertaining to one or both lots

(c) To address other unforeseen hardship conditions on one or both lots. No Lots shall be considered as combined, for whatever reason, until the following steps have been taken:

(i) The Lot owner's have obtained the written consent of the Board

(ii) Resurvey of the lots and a new plat established

(iii) New Deed filed at the county court house and tax assessor's office.

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No Lot may be split, divided, or subdivided for sale, resale, gift transfer, or otherwise except those Lots that were combined with the approval of the Association pursuant to (a), (b), and (c) above. These Lots may be subdivided into two Lots as platted prior to the combination with the approval of the Board as long as all back dues are paid on both resulting Lots as if the Lots had never been combined and in the event that a combined Lot has a house and accessory building that will be located on separate Lots after a Board approved subdivision, the combined Lot may not be divided unless the accessory building is removed prior to the subdivision.

**Section 5. EROSION CONTROL:** No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precaution in grading and otherwise changing the natural landscape and require landscaping as provided in Section 6.

**Section 6. LANDSCAPING:** No construction or alteration of any Structure shall take place without prior written approval by the ACC of plans and specifications for landscaping to accompany such construction or alteration. Any lot that has been cleared and then left in a natural state or has been landscaped with various plants, foliage and grass shall be maintained in a neat and orderly fashion. Lots that have been initially cleared may be maintained in a natural condition.

**Section 7. TEMPORARY BUILDINGS:** No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefore approved by the ACC. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot without the prior written consent of the ACC.

**Section 8. SIGNS:**

(a) No sign whatsoever (including but not limited to commercial and similar signs), shall, without the ACC's prior written approval of plans and specifications therefore, be installed, altered or maintained on any Lot, or on any portion of a structure visible from the exterior thereof, except:

- 1) Such signs as may be required by legal proceedings
- 2) Not more than two (2) "For Sale" or "For Rent" signs, and in no event shall such signs be larger than four (4) square feet
- 3) Directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC

(b) Following the consummation of the sale or leasing of any Lot, the sign(s) located hereon shall be removed within five (5) working days.

**Section 9. SETBACKS:** In approving plans and specifications for any proposed Structure, the ACC may establish set back requirements for the location of each of such Structure which are more restrictive than those established by the Plat; provided however, in no event shall the ACC permit any Structure other than paving, retaining walls, and drainage systems nearer to any street right-of-way than forty (40)

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feet or to any other Lot line than twenty (20) feet.

**Section 10. FENCES:** No fence or wall of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ACC of plans and specifications for such fences or walls. Chain link fences are not allowed. Electric fences, above or below ground are exempt.

**Section 11. ROADS AND DRIVEWAYS:** No roads or driveways shall be constructed or altered on any Lot without the prior written approval of the ACC of plans and specifications for such roads and driveways. Specifications shall include the proposed substance to be used in constructing such roads and driveways, which substance shall be satisfactory to the ACC.

**Section 12. CLOTHESLINES:** No outside clothesline or clothes racks shall be placed on any Lot.

**Section 13. BOATS, TRAILERS AND OTHER VEHICLES:**

(a) Boats:

(1) No more than one (1) boat and/or one (1) trailer per lot may be visible from the street. The ACC must approve the location of any parking of a boat and/or trailer on any lot. If the boat is covered, a properly fitted cover is required.

(2) Additional boats may be parked on any Lot behind ACC approved screening or within an approved Structure.

(b) Travel Trailers and Other Vehicles: No travel trailer, trailer house, or recreational vehicle shall be on any lot (except temporarily on the driveway), except on an inconspicuous parking area as approved by the ACC, or within enclosures or behind screening erected in accordance with plans and specifications submitted to and approved by the ACC.

(c) Trucks: Trucks larger than three (3) ton carrying capacity, school buses, and private or public busses shall not be parked on any lot or street adjacent to any lot.

(d) Portable or Temporary Buildings: While nothing contained here-in shall prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use, appearance and maintenance of such a building or trailer must be specifically approved by the ACC prior to its being moved onto the construction site.

**Section 14. RECREATIONAL EQUIPMENT:** No recreational and playground equipment shall be placed on any Lot which is visible from the street abutting such Lot without the prior written approval of the ACC.

**Section 15. GARAGES AND ACCESSORY STRUCTURE(S):** The ACC shall have the right to approve or disapprove the plans and specifications for any garage or accessory Structure to be erected on any Lot, and construction may not be commenced until final plans and specifications have been approved by the ACC. Any accessory Structure shall be constructed concurrently with or subsequently to the construction of the dwelling on the Lot on which such Structure is located. Such Structures shall be located within the side, front and rear set back lines as required hereby or by applicable zoning law.

**Section 16. IMPROVEMENTS OF LOTS:** All construction of Structures on any Lot shall be undertaken and completed in accordance with the following conditions:

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- (a) All construction shall be carried out in compliance with the laws, code rules, regulations and order of all local governmental agencies and authorities.
- (b) Structures shall conform in exterior design and quality to the dwelling on the same Lot.
- (c) Only one mailbox shall be located on any lot, which mailbox shall be selected to be consistent with the quality and design of surrounding dwellings and mailboxes and shall be placed and maintained to complement the dwelling to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States postal Service, its successors and assigns.
- (d) Concrete or concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling Structure constructed or placed on any Lot.
- (e) No lumber, stones, cinder block, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory Structure on such Lot, nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction of the dwelling or accessory Structure in which such material or devices are to be used.
- (f) No exposed above ground tanks for the storage of fuel or water or any other substance shall be located on any Lot without the prior written approval of the ACC.
- (g) Containers for garbage and other refuse shall be underground or in screened sanitary enclosures. No incinerators for garbage, trash, or other refuse shall be used.
- (h) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for damage to any curbing or street resulting from construction on such Lot. Repairs of such damage must be made within thirty (30) days after completion of such construction.
- (i) All dwellings shall be built on site (“stick built”). The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk storage and basement area) of dwellings to be built on Lots with property abutting Lake Oconee shall contain not less than 2200 square feet with not less than 1600 square feet on the main level. The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk storage and basement area) of dwellings to be built on Lots which do not have property lines abutting on Lake Oconee shall contain not less than 1800 square feet with not less than 1500 square feet on the main level.

**Section 17. ANIMALS:** No animal, including birds, insects and reptiles may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have first been approved by the ACC.

**Section 18. TREES AND SHRUBS:** No trees measuring twelve (12) inches or more in diameter at a point two (2) feet above the ground, on any Lot may be removed without the prior approval of the ACC, unless located within (10) feet of the approved site for a dwelling or within the right of way of driveways or walkways. Exception shall be damaged trees or emergency situations where trees may cause damage if not removed.

**Section 19. USE OF THE LAKE:**

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(a) Every Grantee of any interest in the 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 such deed or other conveyance and whether or not such deed shall be signed by such person and whether or not such person shall otherwise consent in writing, acknowledges that there are no warranties, expressed or implied, that any lake or other body of water located on or in the proximity to any portion of Property shall be or remain at any particular level.

(b) No building, fence wall, garage, carport, outbuilding, pier, or other Structure of any nature shall be commenced, erected, placed or maintained within fifty (50) feet of the lake unless approved in writing by the ACC.

### **ARTICLE IX** **INSURANCE**

**Section 1. PURCHASE OF INSURANCE POLICIES:** The Board, or its duly authorized agent, may obtain insurance policies upon the Common Area covering the items described in Section 2 of Article IX, for the benefit of the Association and the Owners and their mortgages, as their interests may appear.

**Section 2. COVERAGE:** The following items may be covered by insurance:

(a) All buildings and improvements upon the Common Area and all personal property included in the Common Area in an amount equal to the full replacement value thereof, as determined annually by the Board. Such coverage shall afford protection against such risks as from time to time shall be customarily covered with respect to building and improvements similar in construction, location and use.

(b) Comprehensive general liability insurance covering loss or damage resulting from an occurrence on the Common Area, in such amounts as may be required by the Board, but not less than \$500,000.00 covering all claims for bodily injury or property damage or both arising out of a single occurrence, with such coverage to include protection against such risks as shall customarily be covered with respect to buildings and improvements similar in construction, location.

(c) Worker's compensation as required by law.

(d) A policy of fidelity coverage against dishonest acts on the part of members of the Board and any employees or volunteers or the Association responsible for handling funds belonging to or administered by the Association.

(e) Such other insurance as the Board may determine from time to time to be desirable.

**Section 3. NAMED INSURED:** The named insured on all policies of insurance permitted under Article IX hereof shall be the Association.

**Section 4. DAMAGE AND DESTRUCTION:** Any damage or destruction by fire or other casualty to the Common Area shall be repaired or reconstructed unless the Owners, who are eligible to vote under Article III, Section 1, of at least sixty-six and two-thirds percent (66 2/3%) of the Lots shall decide within sixty (60) days after the casualty not to repair or reconstruct.

**Section 5. DISTRIBUTION OF PROCEEDS:** Proceeds distributed as a result of an insurance claim shall be applied to the repair and/or restoration of the Common Area unless it is determined pursuant to Section 4 of this Article IX not to repair or reconstruct. Insurance proceeds shall be placed in a capital improvements reserve account if: (i) there is an excess of proceeds after the repair and/or restoration of the Common Area is complete, or (ii) it is determined that the insurance proceeds are not to be applied to the repair and/or restoration of the Common Area.

(a) Plans and Specifications: Any reconstruction or repair must be sufficient to restore the Common Area to substantially the same condition in which it existed prior to the casualty.

(b) Assessments for Reconstruction and Repair: If the proceeds of insurance are not sufficient to completely defray the estimated cost of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of construction and repair, the funds for payment for the cost of reconstruction and repair are insufficient, special assessments shall be levied against the Owner in sufficient amounts to provide funds for the payment of such costs. An assessment against an Owner on account of damage to the Common Area shall be in proportion to the Owner's rate of assessment as provided hereinabove. Special assessments for reconstruction and repair may be collected, and the collection enforced, in the same manner as an assessment.

## **ARTICLE X** **GENERAL PROVISION**

**Section 1. ADDITIONAL ENFORCEMENT RIGHTS:** Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, performing maintenance on any Lot upon a failure by the Lot Owner to do so) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedures set forth in Article IV of this Declaration. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

**Section 2. SEVERABILITY:** If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration shall not be affected thereby and the remainder of this Declaration shall be constructed as if such invalid part was never included therein.

**Section 3. HEADINGS:** The headings of articles and sections in this Declaration are for convenience of references only and shall not in any way limit or define the content or substance of such articles and sections.

**Section 4. DURATION:** The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless the Owners, who are eligible to vote under Article III, Section 1, of at least sixty-six and two-thirds percent (66 2/3%) of the Lots at the time of the expiration of the initial period, or of any extension period, shall sign an instrument in which said covenants and restrictions are modified in whole or in part, which instruments are filed on record in the appropriate county.

**Section 5. RIGHTS AND OBLIGATIONS:** Each grantee of the Association, by the acceptance of a

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deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any period having at any time any interest or estate in the Property or any portion therefore, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

**Section 6. NOTICES:** Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at their Lot or at such other address as hereinafter provided. Notices to the Association or Board shall be in writing and shall be addressed to the President of the Association, at such different address of addresses for notices to them, respectively, as disclosed in a written notice of change of address furnished to all Owners. Any Owner may designate a different address for notice to him or her by giving written notice to the Association. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail or when delivered in person.

**Section 7. AMENDMENT:** This Declaration may be amended at any time and from time to time by an agreement approved or signed by the Owners, who are eligible to vote under Article III, Section 1, of sixty-six and two-thirds percent (66 2/3%) of the Lots. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such charge has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section.

**In witness whereof, the undersigned has caused this Declaration to be signed, sealed and delivered.**

SEBASTIAN COVE HOMEOWNERS  
ASSOCIATION, INC., a Georgia Corporation

Signed, sealed, and delivered  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
In the presence of:

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Witness

[CORPORATE SEAL]

\_\_\_\_\_  
Notary Public

Commission Expires:  
\_\_\_\_\_