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When recorded, return to:  
Frank R. Olson, Esq.  
Cobb, Olson & Andrle, LLC  
500 Sugar Mill Road  
Suite 160-B  
Atlanta, GA 30350

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# **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR TOWNES AT MARIETTA**



Prepared by:  
FRANK R. OLSON, Esq.  
COBB, OLSON & ANDRLE, LLC  
Attorneys at Law  
500 Sugar Mill Road, Suite 160-B  
Atlanta, GA 30350  
(770) 200-8589

## **IMPORTANT NOTICE:**

**THIS DECLARATION SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, *ET SEQ.* CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/CHARGES DUE ON LOTS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS ON LOTS.**

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**THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR TOWNES AT MARIETTA** is made on the date hereinafter set forth by WYLIE ROAD COMMUNITY, LLC (hereinafter referred to as the “Declarant”).

**W I T N E S S E T H :**

**WHEREAS**, Declarant is the owner of the real property described in Exhibit “A” hereof; and

**WHEREAS**, Declarant desires to subject the real property described in Exhibit “A” hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration; and

**WHEREAS**, Declarant has caused the Townes at Marietta Property Owners’ Association, Inc. (the “Association” as hereinafter defined) to be formed as a Georgia non-profit corporation to perform certain functions for the common good and general welfare of the Owners (as hereafter defined);

**NOW, THEREFORE**, Declarant hereby declares that the real property described in Exhibit “A” attached hereto and by this reference incorporated herein is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, mortgaged and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, hereinafter set forth, which are for protecting the value and desirability of and which shall run with the title to the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof.

**ARTICLE 1 - DEFINITIONS**

The following words when used in this Declaration or in any Supplementary Declaration shall have the following meanings:

1.1 “Act” means the Georgia Property Owners’ Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as amended. The property described herein is hereby submitted to the Act.

1.2 “Amenity Area” means any swimming pool(s), clubhouse and related facilities and parking areas which are owned (or will be owned upon the conveyance thereof) and maintained by the Association pursuant to the Declaration.

1.3 “Articles of Incorporation” means the Articles of Incorporation of Townes at Marietta Property Owners’ Association, Inc., filed with the Secretary of State of the State of Georgia and incorporated herein by this reference as may be amended from time to time.

1.4 “Association” means Townes at Marietta Property Owners’ Association, Inc., a Georgia nonprofit corporation, and its successors and assigns.

1.5 “Board of Directors” or “Board” means the appointed or elected body of the Association, vested with the authority to operate, administer and manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, et seq.

1.6 “Bylaws” means the Bylaws of Townes at Marietta Property Owners’ Association, Inc., attached to this Declaration as Exhibit “C” and incorporated herein by this reference, as may be amended from time to time.

1.7 “Common Property” means any and all real and personal property, including, without limitation, easements and other interests therein, and the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.8 “Community” refers to that certain real property described in Exhibit “A”, attached hereto, and such additions thereto as may be made by Supplementary Declaration as provided herein.

1.9 “Community-Wide Standard” means the standard of conduct, maintenance or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association and may be articulated in the Architectural Guidelines established pursuant to Article 6 hereof, but must be consistent with the Community-Wide Standard originally established by the Declarant.

1.10 “Declarant” means Wylie Road Community, LLC, a Georgia corporation and its successors, successors-in-title or assigns taking title to any portion of the property described in Exhibit “A” or Exhibit “B” hereof for the purpose of development and/or sale and designated as Declarant in a recorded instrument by the then holder of the rights of Declarant hereunder. Any or all of the rights of Declarant set forth in this Declaration, the Articles of Incorporation or the Bylaws may be transferred or assigned in whole or in part to other Persons; provided, however, no such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and recorded in the Cobb County, Georgia land records.

1.11 “Mortgage” means any and all instruments used for the purpose of encumbering or conveying title to real property in the Community as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of

trust.

1.12 “Mortgagee” means the holder of a Mortgage.

1.13 “Occupant” means any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.14 “Owner” means the record owner, whether one or more Persons, of the fee simple title to any Unit located within the Community, but excluding a Mortgagee.

1.15 “Person” includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under Georgia law.

1.16 “Supplementary Declaration” means a supplement to this Declaration which subjects additional property to the provisions of this Declaration and the jurisdiction of the Association and/or imposes additional covenants, conditions, restrictions or easements on the property described therein.

1.17 “Total Association Vote” means the votes attributable to the entire membership of the Association (including the votes of Declarant) as of the record date for such action, but specifically excluding the votes of any Owners whose voting rights have been suspended as provided herein, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. If, for example, and without limitation, two-thirds (2/3) of the Total Association Vote is required to approve a matter, such matter must receive more than two-thirds (2/3) of the votes attributable to all existing members of the Association as of the record date for such action (and excluding the votes of any Owners whose voting rights have been suspended as provided herein), whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

1.18 “Unit” shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes a single residential dwelling site, as shown on the subdivision plat(s) for the Community, recorded in the land records of Cobb County, Georgia. The residential dwelling located on each Unit shall be attached by one or more party wall(s) to one or more residential dwellings located on adjacent Units so that the boundary between such Units and the residential dwellings located thereon is a line running along the center of the party wall separating said residential dwellings. The ownership of each Unit shall include, and there shall pass with the title to each Unit as an appurtenance thereto, whether or not separately described, all of the rights and interests of an Owner in and to the Common Property, together with membership in the Association, all as further provided herein.

## ARTICLE 2 – PROPERTY SUBJECT TO THIS DECLARATION

2.1 Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants, conditions, restrictions and easements hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration is the real property described in Exhibit “A” attached hereto and by this reference made a part hereof.

2.2 Unilateral Annexation By Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time at any time to subject all or any portion of the real property described in Exhibit “B” attached hereto and by this reference incorporated herein, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Cobb County, Georgia land records a Supplementary Declaration executed by Declarant describing the property being subjected. Any annexation shall be effective upon the filing for record of a Supplementary Declaration unless a later effective date is provided therein.

2.3 Annexation by Association. Upon the written consent of: (a) the owner(s) thereof; (b) the Declarant; and (c) Owners of at least two-thirds (2/3) of the Units, the Association may annex such real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Cobb County, Georgia land records a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be executed on behalf of the Association by the President of the Association whose signature shall be attested by the Secretary of the Association. The annexation shall be effective only upon the filing for record of such Supplementary Declaration in the Cobb County, Georgia land records, unless a later effective date is provided therein.

2.4 Withdrawal of Property. Declarant has the right to amend the Declaration to remove any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration and the jurisdiction of the Association, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Any withdrawal shall be accomplished by filing for record an amendment to this Declaration which describes the property to be removed and is executed by the Declarant and the Owner(s) of the property being removed if not the Declarant. Any withdrawal shall be effective upon filing for record of such amendment in the Cobb County, Georgia land records, unless a later effective date is provided therein. Notwithstanding anything to the contrary herein, any withdrawal shall require the consent of the Declarant and the owner of the property if not the Declarant, but shall not require the consent or approval of any Unit Owner in the Community.

## ARTICLE 3 - ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in any Unit that is subject to this Declaration shall have a membership in the Association.

The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit. Membership shall be appurtenant to and may not be separated from ownership of a Unit. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the spouse of a member, but in no event shall more than one (1) Person representing a single membership hold office at the same time. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of the officers and directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to cast one (1) vote for each Unit owned. When more than one Person holds an ownership interest in a Unit, the vote for such Unit shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Unit shall be suspended in the event more than one Person seeks to exercise it. The Board of Directors may suspend the voting rights of any Owner for any period during which any past due assessment against any Unit of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, rules and regulations enacted by the Association and Architectural Guidelines established pursuant to Section 6.3 hereof.

#### ARTICLE 4 – ASSESSMENTS

4.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Units, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

4.2 Creation of the Lien and Personal Obligation for Assessments.

(a) General. Each Owner of a Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (i) general assessments; (ii) special assessments; and (iii) specific assessments.

All assessments, together with late charges (in an amount equal to the greater of Ten and no/100 Dollars (\$10.00) or ten percent (10%) of the amount of the assessment or installment not paid when due) as provided for in the Act, interest (at a rate of ten percent (10%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, shall, from the time the sums become due and payable, be a charge on the land and a continuing lien in favor of the Association on the Unit against which each assessment is made. As provided in the Act, the obligation for the payment of assessments and fees arising hereunder shall include costs of collection, including, without limitation, a contingency fee of up to Forty Percent (40%) of the amount then due if the debt is referred to a debt collection agency, reasonable attorneys' fees actually incurred, and the award of attorneys' fees shall not be governed by or construed in accordance with the provisions of O.C.G.A. Section 13-1-1 l(a)(2).

(b) Creation of the Lien. The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien shall be required. Each assessment, together with late charges, interest and costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, shall also be the personal obligation of the Person who was the Owner of the Unit at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Unit, and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of the grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.

(c) No Exemption for Assessments. No Owner (except Declarant or its successors or assigns, which shall be exempted from paying assessments so long as it owns a Unit in the Community) may waive or otherwise be exempt from liability for the assessments provided for herein for any reason, including, by way of illustration and not limitation, the following: (i) abandonment of the Unit; (ii) nonuse of the Common Property; (iii) the Association's failure to perform its obligations required under the Declaration; or (iv) inconvenience or discomfort arising out of the Association's performance of its duties. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

4.3 Operating Budget. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include estimated expenses for maintenance, repair, and/or replacement of private streets in the Community as required by Marietta City Code § 726.06. The Board shall cause the budget and the general assessment to be levied against each Unit for the year to be delivered to each member at least thirty (30) days prior to the due date of such general assessment. The budget and the general assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote and the Declarant. Notwithstanding the foregoing, however, in the event the membership and Declarant disapprove the proposed budget or the Board fails for any reason to determine the budget for any period, then and until such time as a budget has been determined, as provided herein, the budget in effect shall continue.

4.4 General Assessments. General assessments shall be levied equally on all Units and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice for delinquents. Unless otherwise provided by the Board, the general assessment shall be paid in one annual installment. General assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property, improvements to the Common Property, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. General assessments may

include, without limitation, the following: (a) sums for property taxes for the Common Property; (b) insurance premiums; (c) legal and accounting fees; (d) management fees; (e) charges for utilities provided by the Association, if any; (f) costs incurred to maintain the exterior of residential dwellings located on Units; (g) costs incurred to provide lawn and landscape services to the Units; and (h) expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for the indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

4.5 Special Assessments. The Association, acting through the Board of Directors, may levy a special assessment against all Owners in the Community for any unbudgeted or unanticipated expenses or expenses in excess of those budgeted. So long as the total amount of special assessments allocated to a Unit in a fiscal year does not exceed the amount of the annual general assessment for such fiscal year, the Board may impose the special assessment without a vote of the Owners. Except for special assessments levied pursuant to Article 8 hereof, any special assessment which would cause the total amount of the special assessments allocated to a Unit in a fiscal year to exceed the amount of the annual general assessment in such fiscal year must be approved by two-thirds (2/3) of the Total Association Vote and the Declarant in order to be effective. Special assessments shall be paid as determined by the Board. The Board may permit a special assessment to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

4.6 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. The failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. By way of explanation and not limitation, the following shall constitute specific assessments: (a) fines levied pursuant to this Declaration; (b) the working capital contribution as provided in Section 4.13 hereof; and (c) the cost of maintenance performed by the Association for which an Owner is responsible.

The Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which benefit less than all of the Units may be specifically assessed equitably among all of the Units which are benefited according to the benefit received; (b) expenses of the Association which benefit all Units, but do not provide an equal benefit to all Units may be specifically assessed equitably among all Units according to the benefit received; and (c) expenses incurred by the Association which are attributable to or incurred by a particular Owner or the Occupants, guests, tenants, invitees or licensees of such Owner may be specifically assessed against the Unit of said Owner.

4.7 Subordination of Liens to Mortgages. Notwithstanding anything to the contrary in this Declaration or any other document related thereto or executed in connection therewith, the lien of all assessments authorized herein is hereby made subordinate to the lien of any first Mortgage placed on a Unit if, but only if, all assessments and charges with respect to such Unit authorized herein having a due date on or prior to the date of the Mortgage as filed of record have

been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage. Such subordination is merely a subordination and: (a) shall not relieve an Owner of the personal obligation to pay all assessments coming due during such period of ownership; (b) shall not relieve such Unit from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure); and (c) no sale or transfer of such Unit to the Mortgagee or to any other Person pursuant to a foreclosure, or pursuant to any other proceeding in lieu of foreclosure, shall relieve any existing or previous Owner of such Unit of any personal obligation or relieve such Unit or any Owner of such Unit from liability for any assessment authorized hereunder that becomes due after such sale and transfer.

4.8 Remedies of the Association. Any assessments or installments thereof which are not paid when due, shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors-in-title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and such successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves.

Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge (in an amount equal to the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the assessment or installment not paid when due, interest (at a rate of ten percent (10%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorneys' fees actually incurred. As provided in the Act, the obligation for the payment of assessments and fees arising hereunder shall include costs of collection, including, without limitation, a contingency fee of up to Forty Percent (40%) of the amount then due if the debt is referred to a debt collection agency, reasonable attorneys' fees actually incurred, and the award of attorneys' fees shall not be governed by or construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of Cobb County, Georgia, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments.

Each Owner, by acceptance of a deed, vests in the Association the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt, or to foreclose the lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all Owners. The Association shall have the power to bid on the

Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also: (a) suspend the membership rights of the delinquent Owner, including the right to vote and the right of enjoyment in and to the Common Property (other than access to such Owner's Unit); and (b) suspend the right of the delinquent Owner to receive and enjoy such services and other benefits as may then be provided by the Association, if any. Any suspension shall not affect an Owner's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent lien on such Unit in favor of the Association.

4.9 Date of Commencement of Assessments. Assessments shall commence when the Board of Directors first determines a budget and levies assessments. The assessments provided for herein shall commence as to a Unit on the date that such Unit has been improved with a dwelling for which a certificate of occupancy has been issued and has been conveyed to an Owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy. Any Unit which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Unit is approved for use as a model home and is not occupied for residential purposes.

4.10 Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint and remove the directors and officers of the Association, Declarant may, but shall not be obligated to: (a) advance funds or contributions of services or materials or a combination of services and materials, rather than money (herein collectively called an "in kind contribution"), or a combination of these, to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the general, special and specific assessments collected by the Association in any fiscal year (such advances shall be evidenced by promissory notes from the Association in favor of the Declarant); or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for similar loans in the local area of the Community; provided, however, no Mortgage secured by the Common Property or any of the structures or improvements maintained by the Association shall be given in connection with such loan, unless the loan has been approved by Owners of at least two-thirds (2/3) of the Units as provided in Section 9.2(a) hereof.

4.11 Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

4.12 Estoppel Letter. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, including any late charges, interest, fines, or other

charges against that Unit. Such request shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. The Association shall, within five (5) business days after receiving a written request therefor certify to the amount of any unpaid assessments constituting a lien on a specified Unit. A certification letter signed by an officer of the Association or the Association's managing agent, if any, as to the amount of assessments due with respect to a Unit shall be binding upon the Association. The Association may charge a reasonable fee as may be permitted by law as a prerequisite to the issuance of such statement. It is the intent of this provision to comply with O.C.G.A. Section 44-14-15(c), as amended.

#### 4.13 Working Capital Contribution.

(a) General. Upon each and every transfer or conveyance of title to a Unit after it has been improved with a dwelling for which a certificate of occupancy has been issued, a working capital contribution in an amount determined by the Board from time to time, but not to exceed the amount of the general assessment applicable to the Unit for the year of such conveyance, shall be collected from the new Owner at the closing of such transaction and disbursed to the Association; or if not collected at closing, shall be paid immediately upon demand to the Association. The working capital contribution shall constitute a specific assessment against the Unit, shall be in addition to, not in lieu of, the general assessment and shall not be considered an advance payment of such assessment. The working capital contribution may be used by the Association for any purpose which provides a direct benefit to the Community, including, without limitation, for the payment of operating expenses of the Association and other expenses incurred by the Association pursuant to the provisions of this Declaration. Notwithstanding the foregoing, the working capital contribution shall not apply to the holder of any first Mortgage on a Unit who becomes the Owner of a Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage, but shall apply to the Owner acquiring title to the Unit from the foreclosing Mortgagee.

### ARTICLE 5 – MAINTENANCE; COMMON PROPERTY

#### 5.1 Association's Maintenance Responsibility.

(a) General. The Association shall maintain and keep in good repair the Common Property, which shall include, without limitation, the maintenance, repair and replacement of all landscaping and improvements situated thereon, if any. The Association shall also maintain (whether or not constituting Common Property) the following: (i) all Community entry features and entry area landscaping, including, without limitation, any irrigation system and/or lighting system serving such entry features and landscaping; (ii) those portions of a residential dwelling located on a Unit as provided in this Article 5; (iii) lawn and landscaping to a Unit as provided in this Article 5; and (iv) all pipes, utility lines, wires, plumbing, conduits and systems, including without limitation, water and sanitary sewer pipes or facilities that serve more than one (1) Unit, if and to the extent the same are not maintained on an ongoing basis by a governmental authority or third party.

In the event that the Association determines that the need for maintenance, repair, or

replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment.

(b) Additional Maintenance Assumed by Association. The Association shall have the right, but not the obligation, to maintain property that it does not own, whether located within or outside of the Community, where the Board has determined that such action would benefit the Owners. In addition to the foregoing, the Board shall have the right, with the consent of the Declarant and without the consent of the members, to enter into easements and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners.

(c) Board Authority to Enter Contracts. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association. All maintenance performed by the Association shall be consistent with the Community-Wide Standard.

5.2 Owner's Maintenance Responsibility. Except for maintenance performed on or to a Unit by the Association pursuant to this Article 5, all maintenance of the Unit and all structures and other improvements located thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Unit in a manner consistent with this Declaration and the Community-Wide Standard. Such maintenance obligation shall include, without limitation, the following: (a) prompt removal of all litter, trash, refuse, and waste; (b) keeping improvements, and exterior lighting in good repair and working order; (c) complying with all governmental health and police requirements; (d) repair of exterior damage to improvements; (e) maintaining grading and storm water drainage as originally established on the Lot; and (f) maintenance, repair and replacement of any pipe(s), wire(s) and conduit(s) which serve only the Unit, regardless of whether said pipe(s), wire(s) or conduit(s) are located within or outside of a Unit's boundaries; and (g) all portions of the Unit which are not maintained by the Association as provided in this Article 5.

5.3 Party Walls. Each wall built as part of the original construction of a residential dwelling located on a Unit or added pursuant to Article 6 hereof which shall serve and separate any two (2) adjoining Units or the residential dwellings located thereon shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. If a party wall is destroyed or damaged by fire or other casualty, then any Owner who has benefited by the wall may restore it, and the other Owner who is benefited by the wall shall contribute one-half of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

All such repair or rebuilding shall be done within a reasonable period of time, and in

such workmanlike manner with materials comparable to those used in the original wall or fence, and shall conform in all respects to the laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction. Whenever any wall or any portion thereof shall be rebuilt, it shall be erected in the same location and on the same line and be of the same size as the original wall.

#### 5.4 Exterior Unit Maintenance.

(a) By the Association. As provided in Section 5.1 above, the Association shall maintain and keep in good repair the exterior portions of all dwellings located on Units in the Community on a schedule determined by the Board of Directors in its sole discretion. Exterior maintenance performed to a residential dwelling located on a Unit by the Association shall be limited to the following: (i) exterior surfaces of garage doors (the owner shall be responsible for the operation of the garage doors and all related equipment); (ii) roof decking and shingles or other covering and surface materials on Units; (iii) downspouts and gutters, if any; (iv) painting and/or pressure washing the exterior building surfaces of a residential dwelling located on a Unit, with the exception of doors, hardware and glass as more particularly described in subsection (b) below; and (v) painting and/or staining and/or sealing any deck or balcony which is attached to a residential dwelling on a Unit. Notwithstanding the foregoing, the Association shall not be responsible for waterproofing foundations either above or below grade.

The Board of Directors may promulgate rules setting forth the extent of maintenance to be performed by the Association and may assume responsibility for providing additional maintenance as long as all Units are maintained according to the same standard. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

In the event any personal property of an Owner or Occupant, including, but not limited to, any satellite dish, grill or patio furniture, is stored, placed or affixed to a deck, patio, balcony, the exterior of a residential dwelling, or such other area the Association is responsible for maintaining pursuant to this Article 5, the Association shall have the right, but not the obligation, in the Board's sole discretion, to remove and reinstall such personal property in order to perform its maintenance responsibilities hereunder, and any and all costs associated with the removal and reinstallation of such property may be assessed against the Unit of such Owner or Occupant as a specific assessment. Additionally, in the event the Association incurs additional maintenance costs as a result of any personal property of an Owner or Occupant being stored, placed or affixed to any area the Association is obligated to maintain, the Association shall have the right to specifically assess such additional maintenance costs against the Unit of such Owner or Occupant. In the event damage or destruction of any such personal property occurs during the performance of any maintenance, repair or replacement hereunder, the Association, and its officers, directors, agents or employees shall not be liable for such damage or destruction.

(b) By The Unit Owner. Except for maintenance performed on or to a Unit by the Association pursuant to this Article 5, all maintenance of the Unit and all structures and other improvements located thereon shall be the sole responsibility of the Owner thereof, who shall

maintain such Unit in a manner consistent with the Community-Wide Standard and this Declaration. Maintenance by the Owner shall include, without limitation, the following: (i) all steps, stoops, decks (whether enclosed or not), balconies, patios (whether enclosed or not) and patio surfaces and landscaping placed on the patio, decks or balconies, if any (with the exception of painting and/or staining decks which shall be the Association's responsibility as provided above); (ii) HVAC or similar equipment; (iii) all doors, including screen and storm doors, garage doors, and door hinges, frames, glass, screens and hardware which are part of the entry system, to the extent the same are not maintained by the Association pursuant to this Article 5; (iv) hose bibs contained in the exterior walls of a Unit; (v) all exterior lighting fixtures located on or exclusively serving a Unit; (vi) all windows, including, without limitation, window screens, frames, glass and hardware, to the extent the same are not maintained by the Association pursuant to this Article; (vii) all exterior hardware; (viii) foundations and footings, including waterproofing, either above or below grade; and (ix) all driveways and walkways serving the Unit.

Notwithstanding the foregoing, each Owner of a Unit shall be obligated to: (i) perform his or her maintenance responsibility in such manner so as not to unreasonably disturb other Persons in or on other Units; (ii) promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible; and (iii) not make any alterations in the portions of the Unit which are to be maintained by the Association, if any, remove any portion thereof: make any additions thereto, or do anything with respect to the exterior or interior of such Unit or the structures located thereon which would or might increase the Association's maintenance costs or jeopardize or impair the safety or soundness of any Unit or any structure or improvement located thereon, without first obtaining the written consent of the Board and all Owners and Mortgagees of the Units affected. Each Owner shall also not impair any easement without first obtaining the written consent of the Association and of the Owner or Owners and their Mortgagees for whose benefit such easement exists.

#### 5.5 Lawn and Landscape Maintenance.

(a) Common Property. As provided in Section 5.1 above, the Association shall be responsible for all landscaping to green space and open space areas. The Board of Directors in its sole discretion may leave portions of the Common Property, if any, as undisturbed natural areas and may change the landscaping in the Community at any time and from time to time. The Board of Directors may promulgate rules setting forth the extent of landscaping maintenance to be performed by the Association to the Common Property and the rights of Owners with respect to adding or modifying landscaping improvements, including, for example allowing seasonal flowering plants in certain portions of the Common Property at the expense of the Owner. Owners shall not add trees, shrubs, bushes, plants or other vegetation to the Common Property without the prior written consent of the Board of Directors. Any approved landscaping improvements originally installed by an Owner which are not properly maintained, including, but not limited to, damaged, diseased or dead plants, shrubs and trees may, at the sole discretion of the Board of Directors, be removed from the Community and all costs associated therewith may be assessed against the Owner and the Unit as a specific assessment.

(b) Lawn and Landscaping to Units.

(i) By the Association. As provided in Section 5.1 above, the Association shall provide lawn and landscaping to Units which shall be limited to the following: (A) as-needed lawn mowing and leaf blowing; (B) as-needed weed control; and (C) as-needed shrub trimming. The Board of Directors may, with the consent of the Declarant, change the level of maintenance performed hereunder, so long as all Units are maintained according to the same standard.

(ii) By an Owner. Each Owner shall be responsible for all other lawn and landscaping to a Unit which is not provided by the Association pursuant to subsection (b)(i) above, which shall include, but not be limited to, the following: (A) shrub fertilization; (B) monitoring plants, shrubs and lawns for insecticide and disease; (C) watering landscaped areas; and (D) keeping lawns, shrubs, and garden areas generally alive and attractive. All lawn and landscape maintenance to Units shall be performed in a manner consistent with the Community-Wide Standard. Any landscaping improvements originally installed by an Owner which are not properly maintained, including, without limitation, dead, diseased, damaged or dying plants, trees and shrubs may, at the sole discretion of the Board and, subject to the notice provisions hereof, be removed from the Community and all costs associated therewith shall be a specific assessment against the Unit of such Owner.

5.6 Failure of Owner to Maintain. In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible under this Declaration, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement to be performed. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable period of time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner and the Unit as a specific assessment. This Section shall not apply to any Unit(s) owned by Declarant, unless improved with a dwelling and occupied as a residence.

5.7 Conveyance of Common Property by Declarant to Association; No Implied Rights. The Declarant, or the owner of the property with the consent of the Declarant, may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be Common Property to be used and maintained by the Association for the benefit of its members. So long as Declarant owns any property primarily for development and/or sale in the Community or owns any property which may be added to the Community as provided herein, Declarant may, upon written notice to the Association, require the Association to reconvey to Declarant all or

any portion of the Common Property, improved or unimproved, at no charge to Declarant, without a vote of the members of the Association, if all or a portion of the Common Property is: (a) found by Declarant to have been conveyed in error; (b) needed by Declarant to make adjustments in property boundary lines; or (c) needed by Declarant due to changes in the overall scheme of development for the Community.

The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept/make on behalf of the Association any such conveyance and reconveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any such conveyances and reconveyances, and all acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether such property has been made available for the use of Owners. The Declarant may reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until such property rights, easements or licenses are conveyed by the Declarant, or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the Cobb County, Georgia land records.

5.8 Partition of Common Property. The Common Property shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of: (a) all Owners of all portions of the property located within the Community; and (b) all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Units.

5.9 Condemnation. In the event of a taking by eminent domain of all or any portion of the Common Property on which improvements have been constructed, the Association shall, if reasonably possible, restore or replace such improvements on the remaining Common Property, unless within sixty (60) days after such taking, an alternative plan is approved by at least seventy-five percent (75%) of the Total Association Vote and the Declarant. The provisions of this Declaration applicable to the replacement and/or restoration of damaged improvements on the Common Property shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

5.10 Liability. Owners, Occupants and their guests shall use the Common Property and all portions of the Community not contained within a Unit at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and Occupants shall have an affirmative duty and responsibility to inspect the Common Property for any defects, perils or unsafe conditions related to the use and enjoyment thereof. The Association,

the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for: (a) personal injury to any person occurring on the Common Property; (b) loss or damage to personal belongings used or stored on the Common Property or on any other portion of the Community; or (c) loss or damage, by theft or otherwise, of any other property of an Owner or Occupant.

In addition to the foregoing, the Association, the Declarant and their respective officers, directors, representatives, agents and employees shall not be liable for injury or damage to any Person or property: (a) caused by the elements or by an Owner or any other Person; (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or from any portion of the Common Property; or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair.

#### 5.11 Measures Related to Insurance Coverage.

(a) The Board of Directors shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Community that are the maintenance responsibility of the Unit Owner which will, in the Board's sole discretion, decrease the possibility of fire or other damage to any improvements located in the Community, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to requiring to: (i) turn off cut-off valves, which may now or hereafter be installed, during winter months for outside water spigots; (ii) insulate pipes sufficiently or take other preventive measures to prevent water pipes from freezing; (iii) install smoke detectors; (iv) requiring Owners to make improvements to the Owner's Unit; and (v) take such other measures as the Board may reasonably require, so long as the cost of such work does not exceed the amount of the annual general assessment applicable to the Unit in any twelve (12) month period.

(b) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any reasonable requirement made by the Board pursuant to Section 5.11(a) above, the Association, upon fifteen (15) days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost and expense. Such cost shall be a specific assessment and a lien against the Unit and shall be collected as provided herein for the collection of assessments. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to Section 5.11(a) above, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

### ARTICLE 6 – ARCHITECTURAL STANDARDS

6.1 General. No exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavating, grading,

filling, construction of impervious surfaces, building, exterior alteration of existing improvements, installing storm and screen doors, storm windows, fencing, changing the exterior color of any existing improvement and planting and removing landscaping materials) shall be commenced or placed upon any part of the Community unless, installed by the Declarant, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of a structure located on a Unit without approval hereunder. However, modifications and/or additions to the interior of porches, patios, decks, and similar portions of a structure visible from outside of a Unit shall be subject to approval. No approval shall be required to rebuild in accordance with originally approved plans and specifications or to repaint the exterior of a structure on a Unit in accordance with the originally approved color scheme. This Article shall not apply to the activities of the Declarant or affiliates of Declarant, nor to improvements to the Common Property made by or on behalf of the Association.

This Article may not be amended without the written consent of the Declarant until: (a) the Declarant no longer owns any property in the Community and no longer owns any property which may be annexed to the Community as provided herein; and (b) each Unit has been improved with a dwelling for which a certificate of occupancy has been issued.

6.2 Guidelines and Procedures. Except as provided above or as specifically articulated in the Architectural Guidelines established pursuant to Section 6.3 hereof, no exterior construction, addition or alteration shall be made unless and until plans and specifications shall have been submitted in writing to and approved by the Declarant. Such plans and specifications shall be of sufficient detail to allow the Declarant to make its review and to the extent required by the Declarant shall show the nature, kind, shape, height, materials and location of the proposed structure or improvement. The Declarant shall be the sole arbiter of such plans and specifications and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and it shall be entitled to stop any construction in violation of such plans and specifications. If the Declarant fails to approve or disapprove submitted plans and specifications within forty-five (45) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. If construction does not commence on a project for which plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the Declarant for reconsideration.

As a condition of approval under this Article, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for the maintenance, repair, replacement and insurance to and on any structure, improvement, change, modification, addition or alteration. In the discretion of the Declarant, an Owner may be required to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The Declarant and its representatives and agents shall have the right, during reasonable hours and after reasonable notice, to enter upon any property in the Community to determine whether or not these restrictive covenants have been or are being complied with and such Persons shall not be deemed guilty of trespass by reason of

such entry; provided, however, nothing in this Section 6.2 shall authorize entry into a single family dwelling located on a Unit without the consent of the Owner thereof.

6.3 Guidelines and Procedures. The Declarant may adopt written architectural, landscaping and fencing guidelines (collectively the "Architectural Guidelines") and application and review procedures, which may provide for a review fee. The Declarant shall have the sole and full authority to prepare and to amend, from time to time at its sole discretion and without notice, the Architectural Guidelines. In the event Declarant modifies, expands or repeals all or any portion of the Architectural Guidelines, said new Architectural Guidelines shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of the Total Association Vote and the Declarant. The Declarant shall make the Architectural Guidelines available to Owners and Occupants who seek to engage in construction upon all or any portion of the Community and such Owners and Occupants shall conduct their operations strictly in accordance therewith and with the provisions of this Article 6. The Declarant shall provide, without cost, a copy of the Architectural Guidelines then in effect to any requesting Owner or Mortgagee.

All Owners and Occupants of Units are hereby notified that the use of their Units is limited by the Architectural Guidelines as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by the Architectural Guidelines, that the Architectural Guidelines may change from time to time, and that such changed Architectural Guidelines may or may not be set forth in an instrument recorded in the Cobb County, Georgia land records.

6.4 Limitation of Liability. Plans and specifications are not approved for engineering or structural design, quality of materials or for compliance with applicable building codes, permitting requirements, zoning conditions or other applicable governmental laws, ordinances and regulations governing construction in the Community and by approving such plans and specifications the Declarant and its members, officers, directors, representatives, employees and agents assume no liability or responsibility therefor or for any defect in any structure or improvement constructed from such plans and specifications or for any violation of building codes, zoning conditions, permitting requirements or for any other violation of applicable governmental laws, ordinances and regulations governing construction in the Community. Declarant, the Association and their respective officers, directors, members, employees, representatives and agents shall not be liable in damages to anyone submitting plans and specifications for approval or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against Declarant, the Association or their respective officers, directors, members, employees, representatives and agents to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for all claims, demands and causes of

action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

6.5 No Waiver. The approval of the Declarant of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Declarant, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters whatever subsequently or additionally submitted for approval or consent.

6.6 Variances. Notwithstanding anything to the contrary contained herein, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration and the Architectural Guidelines if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to, topography, natural obstructions or hardship, aesthetic considerations or environmental considerations. No variance shall: (a) be effective unless in writing; (b) be inconsistent with the overall scheme of development for the Community; or (c) estop the Declarant from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

6.7 Enforcement. Any structure, improvement or landscaping improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Declarant, Owners shall, at their own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant and its agents shall have the right to enter the property, remove the nonconforming structure or improvement, and restore the property to substantially the same condition as previously existed. All costs, including, without limitation, reasonable attorneys' fees actually incurred, may be assessed against the Unit as a specific assessment. Neither the Declarant, the Association nor their respective officers, directors, members, employees, representatives and agents shall be held liable to any Person for exercising the rights granted by this Section, including, without limitation, claims for damages resulting from the removal of the nonconforming structure or improvement in accordance with the procedures set forth herein.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Architectural Guidelines may be excluded by the Declarant from the Community, subject to any applicable notice and hearing procedures contained in the Bylaws.

In the event of noncompliance with this Article, the Association or Declarant, as the case may be, may record in the appropriate land records a notice of violation hereunder naming the violating Owner. Declarant or the Association, acting through its Board, shall also have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article, including, without limitation, the right to levy and collect fines against

non-complying Owners and Occupants in accordance with the provisions of this Declaration and the Bylaws.

6.8 Architectural Review by Declarant. Until: (a) the Declarant no longer owns any property in the Community and no longer owns any property which may be added to the Community; and (b) each Unit has been improved with a dwelling for which a certificate of occupancy has been issued, the Declarant shall have the sole right, power and authority under this Article. Notwithstanding the foregoing, the Declarant may in its sole discretion relinquish architectural control as to certain types of improvements or modifications to the Board of Directors while retaining control over all other building and construction in the Community; provided, however, any right, power or authority of the Declarant which may be relinquished to the Board of Directors prior to the termination of the rights of Declarant hereunder shall only be by a written instrument executed by Declarant and recorded in the Cobb County, Georgia land records and no such right, power or authority shall be relinquished by implication or otherwise. For example and without limitation, the Declarant may relinquish control over modifications of existing structures to the Board of Directors while retaining all authority to review and approve new home construction. Upon the surrender in writing of all or a portion of such right and authority, the Board of Directors shall then have such jurisdiction over architectural control under this Article as may have been relinquished by the Declarant. The establishment of an advisory architectural review committee shall not be deemed to be a relinquishment by Declarant of any of its right, power and authority hereunder.

After the termination or voluntary surrender of the rights of Declarant hereunder, the Board of Directors shall have all right, power and authority to review and approve all building and construction activity within the Community and this Article shall then be read and interpreted as if any reference to the authority of or action by the Declarant in this Article 6 were a reference to the authority of or action by the Board of Directors. The Board of Directors may, but shall have no obligation to, establish an architectural review committee ("ARC"), which shall then have such rights, powers and authority as may be granted to it by the Board of Directors.

The Board of Directors may grant to the ARC all of its rights, powers and authorities hereunder, or may grant the ARC such limited rights as it deems appropriate in its sole discretion. In the event that all or any portion of such rights, powers and authorities are granted to an ARC, this Article or portions thereof, as appropriate, shall then be read and interpreted as if any reference to the authority of or action by the Declarant in this Article 6 were a reference to the ARC. Notwithstanding anything herein to the contrary, the Board of Directors shall have the sole right and authority to appoint and remove the members of the ARC.

## ARTICLE 7 – USE RESTRICTIONS AND RULES

7.1 Rules and Regulations. The Board of Directors may, from time to time, with the consent of Declarant and without a vote of the members, promulgate, modify or delete reasonable rules and regulations applicable to the Community. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority

of the Total Association Vote and the Declarant.

All Owners and Occupants of Units are hereby notified that the use of their Units is limited by the rules and regulations as they may be adopted, amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by the rules and regulations, that the rules and regulations may change from time to time, and that such changed rules and regulations may or may not be set forth in an instrument recorded in the Cobb County, Georgia land records.

7.2 Residential Use. Each Unit shall be used for residential purposes exclusively. Leasing of a Unit for residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Unit, except that the Owner or Occupant residing at the Unit may conduct business activities within the residential dwelling located thereon so long as the business activity: (a) does not otherwise violate the provisions of the Declaration, Bylaws or rules and regulations of the Association; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Unit; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Community; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Community; (g) does not constitute a nuisance or a hazardous or offensive use; (h) does not threaten the security or safety of other residents of the Community; and (i) does not involve door-to-door solicitation within the Community, all as may be determined in each case in the sole discretion of the Board of Directors.

The Board may issue rules regarding permitted business activities. The terms “business” and “trade”, as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity. Notwithstanding anything to the contrary herein, nothing in this Section 7.2 shall be construed as prohibiting the Declarant from maintaining model homes, speculative housing, sales trailers or construction trailers within the Community.

7.3 Signs. No sign of any kind shall be erected or displayed within the Community without prior written approval under Article 6 hereof or in compliance with the Architectural Guidelines; provided, however, the following signs may be erected on any Unit without approval: (a) one professionally lettered “For-sale” or “For-rent” sign; (b) security signs not larger than 18-inches by 18-inches which are consistent with the Community-Wide Standard; and (c) signs required by legal proceedings. Notwithstanding the foregoing, the Board, on behalf of the Association, or the Declarant shall have the right to install reasonable and appropriate signs in the Community which may include, without limitation, signs relating to the construction, marketing and sale of residential dwellings located on Units. The Board of Directors shall have the right

to adopt reasonable rules and regulations governing the display and placement of signs in the Community, including, without limitation, imposing reasonable time, place and manner restrictions. The Board or Declarant, as the case may be, may impose a reasonable fine, in an amount determined by the Board in its sole discretion, per day for the display of any sign which violates this provision and is not removed within twenty-four (24) hours after written demand is delivered to the Owner at that Unit. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure.

#### 7.4 Vehicles; Parking.

(a) General. Vehicles shall be parked only in appropriate parking spaces serving the Unit or other designated parking areas established by the Board, if any. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go carts, golf carts, trucks, campers, buses, vans and automobiles. The term "parking areas serving a Unit" shall refer to the number of garage parking spaces and, if and only if, the Owner or Occupants of a Unit have more vehicles than the number of garage parking spaces, those excess vehicles which are an Owners' or Occupant's primary means of transportation on a regular basis may be parked on the driveway located on such Unit; provided, however, no vehicle parked on a driveway shall encroach onto any portion of a sidewalk, street, alley or any grassy or landscaped area. All parking shall be subject to such other reasonable rules and regulations as the Board may adopt from time to time.

(b) Garages. All homes shall contain a garage; carports shall not be permitted. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage. Garages shall be used primarily for the parking of vehicles and not for storage or other purposes; provided, however, the use of a garage for storage shall be permitted so long as such storage does not prevent an Owner or Occupant from parking vehicles in the garage on a regular basis. Garages shall not be converted to additional living space except with written permission pursuant to Article 6 hereof.

(c) Disabled and Stored Vehicles. No vehicle may be left upon any portion of the Community, except in an enclosed garage or other area designated by the Board, if any, for a period longer than five (5) days if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. After such five-day period, such vehicle may be removed from the Community by the Board of Directors or the appropriate authority of Cobb County. Any towed vehicle, boat, personal watercraft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go cart, golf cart, commercial truck, camper, bus or mobile home regularly stored in the Community or temporarily kept in the Community, except if kept in an enclosed garage, or such other area designated by the Board, if any, for periods longer than twenty-four (24) hours may be removed from the Community by the Board of Directors (the temporary removal of such vehicle to break the continuity of the twenty-four (24) hour period shall not be sufficient to establish compliance with this restriction). Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation and the camper is stored out

of public view upon removal. No eighteen wheel trucks or the cabs of such trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept or stored within the Community except during the time reasonably necessary to provide service to or delivery within the Community or as otherwise permitted by the Board of Directors.

(d) Commercial Vehicles. The term “commercial vehicles” as used herein, shall include, without limitation, any vehicle which bears any indicia of commercial use, including, but not limited to, writing, logos, advertising signs, ladders, ladder racks, vehicles displaying signage of a commercial or business nature or vehicles which are not primarily used for the transportation of passengers, all as determined by the Board in its sole discretion. Commercial vehicles shall not be permitted in the Community, except if kept in an enclosed garage; provided however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery within the Community.

(e) Remedies of Association for Noncompliance. If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may cause the vehicle to be towed or booted, subject to compliance with applicable law, including any notice required thereby. The notice may be a general notice by signage or may be placed on the vehicle, if and as allowed under applicable law, as the case may be. If a vehicle is parked in a fire lane, is blocking another vehicle, is obstructing the flow of traffic, is parked on any landscaped area or otherwise creates a hazardous condition, the Board or agent of the Association may have the vehicle towed immediately, subject to compliance with applicable law. If a vehicle is towed or booted in accordance with this subparagraph and applicable law, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

(f) Traffic Regulations. All vehicular traffic on any private streets and alleys in the Community shall be subject to the provisions of state and local laws concerning the operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including, without limitation, imposing reasonable safety measures and speed limits consistent with those in force on public streets within the Community. The Association shall be entitled to enforce the same by establishing such enforcement procedures as it deems appropriate, including levying and collecting fines for the violation thereof. In the event of a conflict between the provisions of state and local laws and rules and regulations promulgated by the Association, the more restrictive provision shall control. Only drivers properly licensed to operate motor vehicles on the public roads within the State of Georgia may operate any type of motor vehicle within the Community. All vehicles of any kind and nature which are operated on the streets in the Community shall be operated in a careful, prudent, safe, and quiet manner and with due consideration for the rights of all Owners and Occupants.

(g) Declarant Exemption. Notwithstanding anything to the contrary in this Section 7.4,

the Declarant, and its respective agents, subcontractors and assigns shall have the right, during regular business hours, to park vehicles on any and all streets within the Community as needed in order to facilitate the construction, development, maintenance and build out of the Community.

7.5 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Unit, with the exception of dogs, cats or other usual and common household pets in reasonable number as determined by the Board from time to time. No pets shall be kept, bred or maintained for any commercial purpose. No dog runs, runners or exterior pens for household pets shall be erected or maintained on any Unit unless approved in accordance with the provisions of Article 6 hereof. Dogs shall at all times when outside of a dwelling located on a Unit be kept on a leash or otherwise under the physical control of a responsible person. All Owners must control their pets at all times, whether or not such Owner is present, in a manner that will prevent any pet from: (a) making noise at objectionable sound levels for extended periods of time, whether continuously or intermittently; (b) endangering the health or safety of other Owners, their families, guests or invitees or creating fear in other Owners as to the safety of themselves, their families, guests or invitees; or (c) otherwise constituting a nuisance or inconvenience to the Owner(s) or Occupant(s) of any other Unit; all of the foregoing as determined by the Association in its sole discretion. The Association may require that an Owner remove any animal that presents an actual threat to the health or safety of residents and require abatement of any nuisance or unreasonable source of annoyance. In the event that an Owner fails to remove an animal as provided herein, the Association shall have the right to institute legal action to have the animal removed and all costs associated therewith, including, without limitation, reasonable attorneys' fees actually incurred, shall be a specific assessment against the Unit of such Owner.

All pets shall be registered, licensed and inoculated if and as required by law. Animal waste deposited in the Community must be removed by the owner of the animal or the person responsible for the animal. The Association may adopt reasonable rules and regulations governing animals and pets in the Community, including, without limitation, rules requiring damage deposits, waste removal, leash controls and noise controls.

7.6 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Unit. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property within the Community. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community by other Owners and Occupants. Without limiting the generality of the foregoing, no horns, whistles, bells, or other sound devices, except security devices used exclusively for security

purposes, screaming, shouting, excessively loud talking, fighting, raucous behavior, insobriety, playing loud music or television, use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations, or any conduct which creates any noxious or offensive odors outside a home shall be permitted, located, used or placed on any Unit, or any portion thereof. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person as determined in a particular instance by the Board. Notwithstanding anything to the contrary herein, each Owner and Occupant acknowledges that the Declarant and its agents, subcontractors, employees and assigns may engage in construction activities in the Community and further agrees that such construction activities shall not be deemed a nuisance as provided herein.

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

7.8 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving and/or transmitting audio or video signals shall be placed, allowed or maintained upon any portion of the Community, including any Unit, unless approved in accordance with the provisions of Article 6 hereof or in compliance with applicable Architectural Guidelines; provided, however, no approval shall be necessary to install the following on a residential dwelling located on a Unit: (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services or antennas designed to receive or transmit fixed wireless signals via satellite, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services or antennas designed to receive or transmit fixed wireless signals other than via satellite that are one meter or less in diameter or diagonal measurement; or (c) antennas that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennae on the rear of the residential dwelling located on a Unit unless such installation: (x) imposes unreasonable delay or prevents the use of the antennae; (y) unreasonably increases the cost of installation; or (z) an acceptable quality signal cannot otherwise be obtained.

7.9 Firearms. Except for the discharge of firearms by law enforcement officers in the performance of their respective duties, the discharge of firearms in the Community is prohibited. The term "firearms" includes, but is not limited to, "B-B" guns, pellet guns, archery equipment and firearms of all types, regardless of size.

7.10 Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any Unit in the Community. Notwithstanding the foregoing, Declarant and the Association may erect any type of fence on the Common Property or elsewhere within the Community as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for the health and safety of Owners and Occupants.

7.11 Air-Conditioning Units. No window air conditioning units may be installed.

(a) Lighting. Exterior lighting on any Unit visible from the street shall not be permitted, except for: (i) approved lighting as originally installed on a Unit; (ii) one decorative post light; (iii) street lights in conformity with an established street lighting program for the Community; (iv) seasonal decorative lights for a period of thirty (30) days from the date of installation, subject to such reasonable rules and regulations as the Board may adopt from time to time; (v) front house illumination of model homes; or (vi) other lighting approved under and pursuant to Article 6 hereof or as otherwise permitted under applicable Architectural Guidelines.

(b) Displays. Religious or holiday symbols and decorations may be displayed on a Unit of the kinds normally displayed in single-family residential neighborhoods; provided, however, the Association may adopt time, place and manner restrictions with respect to said symbols and decorations visible from outside of a structure located on a Unit, including limitations on appearance, style, size, and number.

7.12 Artificial Vegetation, Gardens, Play Equipment, Exterior Sculpture, Water Features and Similar Items. No artificial vegetation shall be permitted on any Unit. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals), exterior sculpture, fountains or water features may be erected on any Unit, without prior written approval in accordance with the provisions of Article 6 hereof and/or in compliance with the Architectural Guidelines established thereunder.

7.13 Energy Conservation Equipment. Except as may be installed by Declarant, approved pursuant to Article 6 hereof or otherwise permitted in the Architectural Guidelines, no solar energy collector panels or attendant hardware or other conservation equipment shall be constructed or installed on a Unit; provided, however, any approved energy collector panels or attendant hardware or other conservation equipment shall be an integral and harmonious part of the architectural design of a structure or otherwise screened from view.

7.14 Storm and Screen Doors and Windows. Owners shall not add storm and screen doors and storm windows on any dwelling located on a Unit without prior written approval in accordance with the provisions of Article 6 hereof.

7.15 Garbage Cans, Woodpiles, Etc. All garbage cans, recycling bins, woodpiles, and other similar items shall be located or screened so as to be concealed from the view of neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Unless otherwise provided by the Board, trash, garbage, debris or other waste matter of any kind may not be burned within the Community. Trash and recycling receptacles shall be placed at the curb no earlier than 5:00 p.m. the day before pick up and shall be removed within twenty-four (24) hours. Trash, recycling and yard waste pick-up shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt from time to time.

7.16 Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed except with the prior written approval in accordance with Article 6 hereof. Declarant, however,

hereby expressly reserves the right to subdivide and/or revise and re-record the subdivision plat of any Unit(s) with the consent of the Owner of the effected Unit(s) and to approve the revision and re-recording of any plat of any Unit(s) owned by any builder or developer, including, but not limited to, changing any Unit to Common Property or creating a public or private street over any Unit or property that was formerly a Unit, without the consent of any Person, other than the Owner(s) of such Unit(s).

7.17 Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Community without the prior written consent of the Board of Directors. If permitted, such activities shall be subject to all reasonable conditions that the Board may impose.

7.18 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments, with the exception of stained wood blinds or shutters, which can be seen at any time from the outside of any structure located on a Unit shall be white, off-white or such other color(s) as may be permitted in the Architectural Guidelines. Bed sheets, blankets, towels, black plastic, paper and similar type items shall not be used as window treatments.

7.19 Heating of Units in Colder Months. In order to prevent water pipes from breaking during colder months of the year resulting in damage to Units, increased common expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within all Units shall be maintained with the heat operating and at a minimum of fifty (50°) degrees Fahrenheit when the temperature is forecasted to or does reach thirty two degrees (32°) degrees Fahrenheit or below. Owners shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. If the heating equipment is not working, the Owner shall immediately inform the Owners of the other affected Units of such equipment failure and of the time needed in order to repair the equipment and during such time shall take reasonable steps to keep the Unit heated sufficiently to prevent water pipes from breaking.

7.20 Drainage. Catch basins, retention ponds, detention ponds, drainage easement areas and related drainage facilities are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flow after the location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 6 hereof. In the event storm water drainage from any Unit or Units flows across another Unit, provisions shall be made by the Owner of such downstream Unit to permit such drainage to continue, without restriction or reduction, across the downstream Unit and into the natural drainage channel or course although no specific drainage easement for such flow of water is provided on the subdivision plat for the Community recorded in the Cobb County, Georgia land records.

7.21 Decks, Patios, Porches and Balconies. No laundry, garments, towels or objects other than potted plants, grills and patio furniture shall be placed on a deck, patio, porch or

balcony, except as may be authorized by the Board of Directors or permitted under the Architectural Guidelines. Objects shall not be permitted to hang over or be attached to any deck, patio, porch or balcony or to otherwise protrude outside of the vertical plane formed by the exterior surface of any deck, patio, porch or balcony located on or appurtenant to a Unit. No deck, patio or porch shall be enclosed without prior written approval in accordance with the provisions of Article 6 of the Declaration.

The use of grills and other like equipment, including, without limitation, smokers, shall only be permitted in accordance with applicable municipal, county and state ordinances and laws and fire codes, as well as the requirements of the Association's insurance policies. No outdoor grills are permitted indoors or inside any garage area. Grills shall be covered with grill covers when not in use. Grill and outdoor furniture covers shall be removable and of a type and color consistent with the Community-Wide Standard.

7.22 Clotheslines. No exterior clotheslines of any type shall be permitted upon any Unit.

7.23 Entry Features. Owners shall not alter, remove or add improvements to any entry features or streetscapes constructed on any Unit in connection with the original development of the Community, or any part of any easement area associated therewith without prior written approval in accordance with the provisions of Article 6 hereof.

7.24 Impairment of Units and Easements. No Owner shall take any action that will impair the structural soundness of any Unit or dwelling or other improvement thereon, or any easement or other interest in real property, nor allow any condition to exist which will materially and/or adversely affect the Common Property, the other Units or their Owners or Occupants.

7.25 Flags. Except for flags which may be installed by the Declarant, no flags may be displayed on any Unit without prior written approval in accordance with the provisions of Article 6 hereof or as otherwise permitted in the Architectural Guidelines established thereunder; provided, however no approval shall be required to display the flag of the United States of America and the current flag of the State of Georgia on a Unit in accordance with the provisions of the U.S. Flag Code (36 US Code Section 10) and usual and customary practice. The Board of Directors of the Association may promulgate reasonable rules and regulations with respect to the display of flags in the Community, including, without limitation, regulating the size of flags that may be displayed and imposing reasonable time, place and manner restrictions pertaining to the display of the United States flag; provided, however, the Association shall not enact any rule or regulation which has the effect of prohibiting any Owner from displaying the flag of the United States of America on a Unit in the Community in contravention of the Freedom to Display the American Flag Act of 2005.

7.26 Leasing Restrictions.

(a) General. The leasing of Residential Units is only permitted to the extent and on such terms and conditions as are provided herein. "Leasing" is defined as regular, exclusive occupancy

of a Residential Unit by any Person other than the Owner, including, but not limited to: (a) any Person who occupies a Unit pursuant to a lease-purchase agreement prior to the closing on the acquisition of the Residential Unit; and (b) any family member of an Owner who exclusively occupies a Unit which is not also the residence of and occupied by the Owner thereof. Notwithstanding the foregoing, "Leasing" does not include occupancy by a roommate(s) or family member(s) of an Owner who along with the Owner occupies a Unit as his or her residence.

Except as provided below, Owners desiring to lease their Residential Units may do so only if they have" 1) applied for and received a "Leasing Permit" from the Declarant or Board of Directors; 2) received a valid "Leasing Permit" from another Owner (with such "Leasing Permit" having been originally issued by the Declarant or Board of Directors); or 3) received a "Hardship Leasing Permit" from the Board of Directors. Such a Permit, upon its issuance or transfer, shall allow an Owner to lease his, her, or its Unit provided that such leasing is in accordance with the terms of the Leasing Permit and this Article. A Hardship Leasing Permit shall be valid only as to a specific Owner. Leasing Permits shall only be transferable between other Units or Owners in accordance with the provisions herein.

(b) Initial Assignment of Leasing Permits.

- (1) Until Buildout, Declarant shall have the exclusive right and authority to assign Leasing Permits ( excluding Hardship Leasing Permits) to Residential Units. Declarant may charge and retain a fee, charge, or premium to assign such Leasing Permits.
- (2) After Buildout, the Association shall have the exclusive right to assign Leasing Permits to Residential Units. The Association may charge and retain a fee, charge, or premium to assign such Leasing Permits.

(c) Leasing Permits.

- (1) An Owner to whom a Leasing Permit has been assigned shall have the permanent right to lease his, her, or its Residential Units subject to the terms of this Article. Nonuse of the Leasing Permit shall not void or extinguish the Leasing Permit. An Owner to which a Leasing Permit has been assigned shall have the right to transfer such Owner's Leasing Permit, on a temporary or permanent basis, to another Residential Unit that has not been assigned a Leasing Permit in accordance with the terms of this Article and for any such fee, payment, or other consideration as may be agreed upon between the transferring Owner and the Owner receiving the Leasing Permit. If a Leasing Permit has not been transferred and assigned to another Residential Unit, the Leasing Permit shall, upon the conveyance of the Residential Unit, transfer with the Residential Unit and become the property of the new Owner.
- (2) The Board shall of the right, but not the obligation, in its discretion to suspend a Leasing Permit if an Owner fails to pay all delinquent assessments, fines, or other charges owed to the Association on or before the date being fifteen (15)

days after the Association sends written notice to the Owner stating that the Owner is more than sixty (60) days delinquent and that the Leasing Permit will be suspended unless payment is received in full on or before such date being fifteen (15) days after the Association sends the written notice.

- (3) If the Board suspends a Leasing Permit as provided herein, any tenant's right to occupy the Residential Unit shall automatically terminate thirty (30) days from the date the Leasing Permit is suspended. A suspended Leasing Permit shall be automatically reinstated upon payment in full of all delinquent assessments, fines, or other charges owed to the Association.

(d) Hardship Leasing Permits. If the Owner of a Residential Unit without a Leasing Permit will suffer a hardship by not being able to lease such Owner's Residential Unit, the Owner thereof may apply to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (a) the nature, degree, and likely duration of the hardship, (b) the harm, if any, which will result to the Community if the Hardship Leasing Permit is approved, (c) the number of Hardship Leasing Permits which have been issued to other Owners, (d) the Owner's ability to cure the hardship, and (e) whether previous Hardship Leasing Permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to the following situations: (1) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Residential Unit was placed on the market, sell the Residential Unit after having made reasonable efforts to do so except at a price below the current appraised market value; (2) where the Owner dies and the Residential Unit is being administered by his or her estate; (3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Residential Unit; and (4) the Owner is moving from the Community and would like to lease the Residential Unit for no more than one (1) year in total. Owners of Residential Units to which a Hardship Leasing Permit has been assigned shall not transfer the Hardship Leasing Permit to any other Unit or any successor Owners of the Residential Units and any such transfers shall be null and void.

No Hardship Leasing Permit shall be issued for more than two (2) years following the procedures set forth below. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the Hardship Leasing Permit, the Owner receives a Leasing Permit. The Board of Directors may revoke a Hardship Leasing Permit if an Owner fails to pay all delinquent assessments, fines, or other charges owed to the Association on or before the date being ten (10) days after the Association sends a written notice to the Owner stating that the Owner is more than thirty (30) days delinquent. The Board shall also have the right, but not the obligation, in its discretion, to revoke an Owner's Hardship Leasing Permit if the Owner or the Owner's Occupants, tenants, guests, or invitees violate in a non-monetary manner the Declaration or any rules and regulations of the Association.

- (e) Leasing Permit Records and Transfers.

- (1) The Association shall keep a list of all Residential Units with Leasing Permits and Hardship Leasing Permits and whether any of the same have been suspended.
- (2) If a Leasing Permit is transferred permanently or temporarily, the transferor shall give signed, written notice of the transfer to the Association stating the Residential Unit address of the transferor, the Residential Unit address of the transferee, the date of the transfer, the length of time of the transfer and signed by the Owner(s) of the Residential Unit from which the Leasing Permit is being assigned and Owner(s) of the Residential Unit to whom the Leasing Permit is being assigned.
- (3) Any Owner, Mortgagee or a Person having executed a contract for the purchase of a Residential Unit or a Leasing Permit or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the status of a Leasing Permit. The Association shall respond in writing within five (5) business days of receipt of the request for such a statement; provided, however, the Association may require the payment of a reasonable administrative fee, not to exceed \$25 or such higher amount as may be authorized by the Board.

(f) Leasing Provisions. Leasing that is authorized pursuant to hereunder shall be governed by the following provisions:

(1) Notice. At least seven (7) days prior to entering into the lease of a Residential Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with this Declaration and any rules and regulations adopted pursuant thereto.

(A) General.

- (i) Residential Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval.
- (ii) All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable.
- (iii) There shall be no subleasing of Residential Unit or assignment of leases without prior written Board approval.

- (iv) All Leases must be for an initial term of not less than six (6) months except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship.
- (v) Within ten (10) days after executing a lease agreement for the lease of a Residential Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Residential Unit.
- (vi) The Owner must provide at Owner's sole expense the lessee copies of this Declaration, Bylaws, and the rules and regulations.
- (vii) Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(B) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of this Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests of the leased Residential Unit in order to ensure such compliance. The Owner shall cause all occupants of his, her or its Residential Unit to comply with this Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Residential Unit are fully liable and may be sanctioned for any such violation. If the lessee, or a Person living with the lessee, violates this Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

Any violation of this Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of this Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney in fact on behalf and for the benefit of the Owner, in

accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Residential Unit.

(C) Use of Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, including but not limited to, the use of any and all recreational facilities and other amenities.

(D) Liability for Assessments. When an Owner who is leasing his, her, or its Residential Unit fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under this Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(E) Required Lease Provisions. Any lease of a Residential Unit shall be required to contain or incorporate by reference the terms set forth in subparagraphs (c), (d), and (e) above. If such language is not expressly contained or incorporated by reference therein, then such language shall be incorporated into the lease by the existence of this covenant, and the tenant, by occupancy of the Residential Unit, agrees to the applicability of this covenant and incorporation of the above-referenced language into the lease.

(g) Applicability of this Article. Notwithstanding the above, this Article shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after Buildout), the Association, or the holder of any First Mortgage on a Residential Unit who becomes the Owner of a Residential Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage; provided, however, the Declarant or holder of any First Mortgage that leases a Residential Unit must still provide the name, address, and telephone number of the Person to whom the Residential Unit is being Leased. Such parties shall be permitted to lease a Residential Unit without first obtaining a Leasing Permit

of Hardship Leasing Permit in accordance with this Article, and such Residential Units shall not be considered as being leased in determining the number of Leasing Permits or Hardship Leasing Permits issued in accordance with this Article. No amendment to this Declaration or the rules and regulations shall deprive an Owner of a Leasing Permit assigned to his or her Residential Unit, terminate the Leasing Permit, modify the terms under which a Leasing Permit may be used or charge a fee with the rental of a Unit except with the prior written consent of all Owners to whom Leasing Permits have been assigned.

7.27 Transient or Hotel Use. No Unit shall be leased, rented or used for short-term transient or hotel purposes, or rented through short-term internet rental services, including, without limitation, VRBO, Airbnb, HomeAway, or such similar rental services.

7.28 Replacement of Pine Straw. Owners and Occupants shall not replace pine straw installed on a Unit with mulch, rocks, stones, pebbles, regardless of color, or any other item until the rights of the Declarant have terminated as provided herein. Thereafter, pine straw may be replaced only upon the written approval pursuant to Article 6 hereof.

7.29 Abandoned Personal Property. Personal property, other than vehicles as provided for in Section 7.4 hereof, is prohibited from being stored, kept, or allowed to remain unattended upon any portion of the Common Property, without prior written Board permission. If the Board determines that a violation exists, then, not less than twenty-four (24) hours after written notice is placed on the personal property and/or on the front door of the property owner's Unit, if known, the Board may remove the personal property and it shall have no obligation to return or replace such property or reimburse the owner of the property. The notice shall include the name and telephone number of the Person which will remove the property and the name and telephone number of an individual to contact regarding the alleged violation. In the event that the Board removes personal property as provided herein, the Owner shall be responsible for all costs associated therewith, including, without limitation, reasonable attorneys' fees actually incurred and such costs shall be a specific assessment against the Unit.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

The Association and any director, officer, employee or agent thereof shall not be liable to any Person for any claim of damage resulting from the removal of any personal property in accordance with the procedures set forth herein. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

## ARTICLE 8 - INSURANCE AND CASUALTY LOSSES

8.1 Insurance Obtained by The Association. The Board of Directors shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Property or required to be maintained by the Association under Article 5 hereof and blanket

insurance for all Units; provided however, the Association's insurance shall not include the Unit Owner's or Occupant's personal property or improvements and betterments made to the Unit by the Owner thereof, all as more particularly set forth in Section 8.2 hereof. Insurance obtained and maintained by the Association shall cover loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in the amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all risk" coverage in like amounts.

The Board of Directors shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million and No 00 Dollars (\$1,000,000.00). Policies may contain a reasonable deductible as determined by the Board of Directors. Premiums for all insurance obtained by the Association shall be a common expense of the Association.

In addition to other insurance coverage required by this Section, the Board shall obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if available at reasonable cost, as determined in the sole discretion of the Board, a fidelity bond or employee dishonesty coverage covering directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the director's best business judgment and shall satisfy local, state or federal requirements for such coverage, if any. Such coverage, if obtained, shall also contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall not be subject to cancellation, nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association.

8.2 Insurance Obtained by Unit Owners. By virtue of taking title to a Unit subject to the terms and conditions of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any improvements to the Unit made by Declarant during the initial construction of the Unit as provided below, or made by the Owner thereafter, or to provide any insurance for any personal property of the Owner or Occupants, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall be responsible for obtaining and maintaining the following: (a) a liability policy covering damage or injury occurring on a Unit; (b) insurance covering an Owner's or Occupant's personal property; and (c) insurance covering the Unit to the extent not insured by policies maintained by the Association, including, without limitation, any betterments and improvements made to the residential dwelling located on a Unit which are either installed by the Declarant during the initial construction process at the request of a purchaser who has entered into a contract with Declarant to purchase such Unit or made by an Owner at any time thereafter. The policies required hereunder shall be in effect at all times.

8.3 Damage and Destruction.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any structure or improvement covered by insurance written in the name of the Association, the Board of Directors shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessary to comply with applicable building codes.

(b) Repair and Construction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote, the Declarant and the Owners of the damaged Units otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members, levy a special assessment against the Owners of Units who would be responsible for such loss in the absence of insurance or otherwise against the Owners of all Units.

Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess funds shall be deposited to the benefit of the Association. In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that event, the property shall be maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration.

8.4 Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who would be responsible for such loss in the absence of insurance. The Owner(s) shall be responsible for the full amount of the deductible under the Association's policy to the extent the same is not covered under such Owner's individual insurance policy. If the loss affects more than one Unit or a Unit and the Common Property, the cost of the deductible may be apportioned and assessed equitably by the Board among the parties suffering loss in accordance with the total costs of repair, unless the insurance policy provides that the deductible will apply to each Unit separately. If an Owner fails to pay the deductible when required hereunder, the Association can pay the deductible and assess the cost to such Owner as a specific assessment.

## ARTICLE 9 – EASEMENTS

9.1 General. Each Unit shall be subject to those easements, if any, shown or set forth on the recorded subdivision plat for the Community, as amended from time to time, as well as the easements now or hereafter established by the Declarant in this Declaration or by any other document recorded in the Office of the Clerk of the Superior Court of Cobb County, Georgia.

9.2 Easements for Use and Enjoyment. Every Owner shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the Owner's Unit in and to the Common Property which shall be appurtenant to and shall pass with the title to each Unit, subject to the following:

(a) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for constructing, repairing or improving any facilities located or to be located thereon and, upon the affirmative vote of Owners of at least two-thirds (2/3) of the Units (other than Declarant) and the consent of Declarant, to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Unit or other property located within the Community (regardless of any contrary provision in this Declaration or in any such Mortgage given by the Association, the exercise of any rights by the holder of such Mortgage in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Unit or other property located within the Community);

(b) the right of the Association, acting through the Board of Directors and without a vote of the members, to dedicate or grant licenses, permits, easements and rights-of-way over, under and through the Common Property;

(c) the right of the Association to dedicate, convey or transfer all or any portion of the Common Property upon the approval of the Owners of at least two-thirds (2/3) of the Units (other than Declarant) and the consent of Declarant;

(d) all other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration, in any Supplementary Declaration or in any deed conveying Common Property to the Association; and

(e) all encumbrances, zoning conditions, and other matters shown by the public records affecting title to the Common Property.

9.3 Easements for Encroachment and Overhang. There is hereby reserved to the Declarant for the benefit of each Unit a reciprocal appurtenant easement for encroachment and overhang between adjacent Units and between a Unit and adjacent Common Property due to the original construction or the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration)

to a distance of not more than two (2) feet, as measured from any point on such common boundary; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association, other than the Declarant in the original construction of the Units.

9.4 Easement for Utilities – Association and Declarant. There is hereby reserved to the Declarant and granted to the Association a blanket easement upon, across, above and under all property within the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television system, or security system which the Declarant or the Association might decide to have installed to serve the Community. Declarant, the Association or their designees may install, repair, replace and maintain or authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment related to the providing of any utility or service. Owners shall not remove, relocate or interfere in any way with any previously installed utility lines and facilities. Notwithstanding anything to the contrary herein, the Board of Directors, without a vote of the Owners, shall have the right, power and authority to grant permits, licenses, utility easements, and other easements under, through, or over the Units and/or the Common Property as may be reasonably necessary for the proper maintenance and/or ongoing operation of the Community.

9.5 Easement for Utilities - Unit Owner. Declarant hereby establishes for the benefit of each Unit a nonexclusive easement for access to and installation, maintenance, repair, replacement and use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving such Unit and situated in, on or under any other Unit or the Common Property. Certain utility meters and facilities may be installed on the end of a building containing multiple Units and utility lines serving other Units may run across, over, under or through neighboring Units. Easements for all such utility lines are established by this Section 9.5 and Section 9.4 above. In the event that any Owner desires access to another Unit to install, maintain, repair or replace any utility pipe, wire, cable, conduit, utility line, flue or duct, the Owner shall contact the Owner of such other Unit(s) at least two (2) days in advance of the date that access is needed and attempt to agree on a convenient date and time for access by the Owner and the Owner's contractors. Access in emergency situations shall be granted immediately upon request. Any Owner of a Unit to which access is needed under this Section shall not unreasonably withhold, condition or delay such access. Rights exercised pursuant to this easement shall be exercised with a minimum of interference to the quiet enjoyment of affected Units, reasonable steps shall be taken to protect such Units and the property of the Owners and Occupants thereof, and damage shall be repaired by the Person causing the damage at its sole cost and expense.

9.6 Easement for Emergency Access. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and rules and regulations and Architectural Guidelines, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association and all policemen, firemen,

ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Association, but shall not authorize entry into a residential dwelling located on a Unit without permission of the Owner.

9.7 Easement for Maintenance - Association. Declarant hereby grants to the Association a perpetual easement across all Units and all other portions of the Community as may be reasonably necessary for the maintenance required hereunder. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Units, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractors at their sole cost and expense. Except in an emergency situation, entry to the interior of a Unit shall only be during reasonable hours and after notice to the Owner.

9.8 Easement for Maintenance - Unit Owner. Declarant hereby reserves for the benefit of each Unit reciprocal appurtenant easements between adjacent Units and an easement over adjacent Common Property for the purpose of maintaining or repairing the improvements located on each Unit which easement shall extend to a distance of five (5) feet as measured from any point on the common boundary between the Units. The easement shall be used only for such period of time as is reasonably necessary in order to complete the maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Unit or Common Property over which this easement is exercised which arises out of such maintenance or repair work.

9.9 Easement for Drainage. There is hereby reserved by the Declarant and granted to the Association an easement upon, across, above and under all storm water drainage easement areas as shown on the recorded subdivision plat(s) for the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining the storm water drainage system and related facilities serving the Community or any portion thereof. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. In addition, there is hereby reserved to the Declarant and granted to the Association a blanket easement across all Units for creating and maintaining satisfactory drainage in the Community; provided, however, such easement area shall not include any portion of a Unit within the outer perimeter of the dwelling structure. It is anticipated that increased storm water run-off across downstream Units will result from the construction of impervious surfaces within or adjacent to the Community. Neither the Declarant, the Association, their respective officers, directors, employees, representatives or agents nor any builder or Owner constructing according to plans and specifications approved under Article 6 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within the Community.

9.10 Easement During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use

restrictions, rules and regulations, Architectural Guidelines, and amendments thereto, Declarant reserves an easement across the Community to maintain and carry on, upon such portion of the Community as it may reasonably deem necessary, such facilities and activities as in its sole opinion may be required or convenient for development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or any other properly being developed by Declarant, including, but not limited to: (a) the right to place or authorize the placement of marketing and directional signs on Units or right-of-way(s) at street intersections within the Community; (b) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Unit; (c) the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; (d) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (e) the right to grant easements over, under, in or on the Community, including without limitation the Units, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (f) the right, without the consent of any Person, to subdivide and/or revise and re-record the subdivision plat(s) of the Community, including, without limitation, creating and/or more specifically describing any Unit, changing any Unit or portion of a Unit to Common Property, Common Property to a Unit or right-of-way or creating a public or private street over all or any portion of a Unit or other property within the Community; provided, however, the boundary lines of any Unit not owned by Declarant shall not be changed without the written consent of the Owner(s) and Mortgagee(s) of such Unit; (g) the right to construct recreational facilities, utilities and other improvements on Common Property; (h) the right to carry on sales and promotional activities in the Community; and (i) the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices or other buildings it owns or leases as model residences and sales offices. This Section shall not be amended without the written consent of Declarant until the rights of Declarant have terminated as provided in Section 10.5 hereof.

9.11 Easement for Private Streets, Alleys and Sidewalks. Declarant hereby grants, conveys, declares, creates, imposes and establishes a perpetual, non-exclusive right-of-way easement for vehicular and pedestrian access, ingress and egress over and across any private streets, alleys and sidewalks located within the Community. At such time as one or more subdivision plats for the property submitted to this Declaration are recorded in the real estate records of the Office of the Clerk of Superior Court of Cobb County, Georgia, any reference to the private streets and alleys shall then and thereafter mean a reference to the private streets and alleys as actually constructed and depicted on the recorded subdivision plat. The right-of-way easement herein granted shall permit joint usage of such easement by: (a) the Owners and Occupants; (b) the legal representatives, successors and assigns of the Owners; and (c) invitees and licensees of the Owners and Occupants. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate

of any right-of-way easement area which are not inconsistent with the rights and privileges herein granted, including, without limitation, the right to maintain one or more proprietary signs on the easement area and the right to grant additional non-exclusive easements to third parties, over, under and across the easement area. Declarant hereby reserves for the benefit of itself and grants to the Association as Common Property, the perpetual nonexclusive right and easement upon, over and across those utility easement areas, private streets and access drives for the installation, maintenance, and use of such private streets, alleys, sidewalks, grading for proper drainage of said private streets and access drives, and related activities and improvements.

## ARTICLE 10 - GENERAL PROVISIONS

10.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations, use restrictions and Architectural Guidelines, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plat(s) for the Community and in the deed to such Owner's Unit, if any. Declarant or the Association, through the Board of Directors, may impose fines or other sanctions for violations of the foregoing in accordance with this Declaration and the Bylaws, which fines shall be collected as provided herein for the collection of assessments; provided, however, only one fine may be imposed for a single violation such that an Owner or Occupant may not be fined by Declarant and the Association for the same violation; provided, further, Declarant or the Association, as the case may be, may count each day a violation continues after notice thereof as a separate violation. In the event fines or other sanctions are imposed by Declarant, Declarant shall have any and all rights to collect such fines or sanctions (which fines shall be payable to the Association) and any related charges, including, without limitation, attorney's fees actually incurred and costs of collection, in the same manner as provided herein for the collection of assessments by the Association acting through the Board.

Failure to comply with this Declaration, the Bylaws, use restrictions, the Architectural Guidelines or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, including, without limitation, reasonable attorney's fees actually incurred, maintainable by the Association, Declarant, or an aggrieved Owner. Failure by Declarant, the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. Declarant and the Association shall also have the right to record in the Cobb County, Georgia land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions or Architectural Guidelines and to assess the cost of recording and removing such notice against the Unit of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

10.2 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Community and shall inure to the benefit of and shall be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually as provided for in the Act.

10.3 Occupants Bound. All provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Architectural Guidelines which govern the conduct of Owners

and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Architectural Guidelines. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

10.4 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant, the Board or their respective duly authorized agents shall have the power to enter upon any Unit or any other portion of the Community to abate or remove any structure, improvement, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, the use restrictions or Architectural Guidelines. Unless an emergency situation exists, the violating Owner shall be given ten days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

10.5 Termination of Rights of Declarant. The rights of Declarant to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the Bylaws shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant no longer owns any property in the Community, no longer owns any property which may be added to the Community as provided herein and a certificate of occupancy has been issued for a dwelling located on each Unit in the Community; or (b) the date of recording by Declarant in the real estate records of Cobb County, Georgia of a written instrument terminating all of Declarant's rights hereunder.

10.6 Amendment.

(a) By the Declarant. This Declaration may be amended unilaterally at any time and from time to time by Declarant if such amendment is: (i) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial determination which shall be in conflict therewith; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Units subject to this Declaration; or (iv) necessary to enable any governmental agency or private insurance company, including without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Units subject to this Declaration; provided, however, such amendment shall not adversely affect the title to any Unit unless the Owner of such Unit consents thereto in writing.

Further, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, such amendment shall not materially adversely affect the substantive rights

of any Owner to use and enjoy his or her Unit hereunder nor shall it adversely affect title to any Unit without the consent of the affected Owner.

(b) By the Board. The Board of Directors, with the written consent of the Declarant, and without a vote of the members may amend this Declaration: (i) to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Units subject to this Declaration; or (iv) to enable any governmental agency or private insurance company, including without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner of such Unit consents thereto in writing.

(c) By the Association. In addition to the above, this Declaration may be amended upon the affirmative vote or written consent or any combination thereof of Owners of at least two-thirds (2/3) of the Units entitled to vote and the consent of Declarant.

Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein. The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the Bylaws, the Articles of Incorporation and Georgia law were given. The amendments authorized by this Section may be of uniform or non-uniform application and Owners shall be deemed to have agreed that the Declaration may be amended as provided herein and that any rule of law requiring unanimous approval of amendments having a non-uniform application shall not apply.

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

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

10.9 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

10.10 No Merger. There shall be no merger of any of the covenants, conditions, restrictions or easements created or reserved hereby with the fee estate of Declarant, by reason of the fact that Declarant may own or hold the estate or interest both encumbered and benefited by such covenants, conditions, restrictions or easements and no such merger shall occur unless and until Declarant, while owning all of the estate or interests, shall execute a written statement or instrument affecting such merger and shall duly record the same.

10.11 Preparer. This Declaration was prepared by Frank R. Olson, Cobb, Olson & Andrle LLC, 500 Sugar Mill Road, Suite 160-B, Atlanta, GA 30350.

10.12 Notices. Except as otherwise specifically provided in such document(s), as the case may be, notices provided for in this Declaration, the Articles or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Unit and to the Declarant, and to the Association at the address of their respective registered agent on file with the Secretary of State of the State of Georgia. Any Owner may designate a different address, including an electronic mail address, for notices to such Owner by giving written notice to the Association. Owners shall keep the Association advised of their current address and phone number(s) where they can be reached. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable commercial courier service, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act". The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

10.13 Notice of Sale or Acquisition. Owners must keep the Association apprised of their name, address and telephone number. Accordingly, prior to the sale of a Unit, the Owner shall provide the Association with written notice of the name of the purchaser and such other information as the Board may reasonably require. Upon acquisition of title to a Unit, each new Owner shall provide the Association with written notice of the name, mailing address and telephone number of the Owner and the names of the Occupants of the Unit and such other information as the Board may reasonably require. All Owners shall notify the Association of any change in name, address or telephone number.

10.14 Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or

committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available. Furthermore, as required by Marietta City Code § 726 *et seq.*, for a period of three (3) years following the sale of the last Unit in the Community by Declarant, Declarant and the Association shall assume the liability of the release and indemnity agreement between Declarant and the City of Marietta regarding the proposed development of the Community, which agreement is hereby integrated into and made a part of these Covenants, Conditions and Restrictions.

10.15 Agreements. Subject to the prior approval of Declarant, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

10.16 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case is warranted and would not be inconsistent with the overall scheme of development for the Community.

10.17 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote and the consent Declarant. This Section shall not apply to: (a) actions brought by the Association to enforce the provisions of this Declaration; (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This Section shall not be amended unless such amendment is made unilaterally by the Declarant as provided herein or is approved by the percentage votes necessary to institute proceedings as provided above.

10.18 No Discrimination. No action shall be taken by the Declarant, the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or disability.

10.19 Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT DECLARANT, THE ASSOCIATION AND ITS BOARD OF DIRECTORS, AND THE ARCHITECTURAL REVIEW COMMITTEE, IF ANY, DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL REVIEW COMMITTEE, IF ANY, ARE NOT INSURERS OR PROVIDERS OF SAFETY OR SECURITY AND SHALL HAVE NO DUTY TO PROVIDE ANY SAFETY OR SECURITY ON THE COMMON PROPERTY OR OTHERWISE; AND THAT EACH OWNER, OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, AND THE ARCHITECTURAL REVIEW COMMITTEE, IF ANY, HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANT ABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

10.20 Disclosures. Every Owner, by acceptance of a deed to a Unit, acknowledges that it will be subject to and bound by the terms and conditions of this Declaration, Bylaws, Architectural Guidelines and any rules and regulations adopted pursuant thereto.

Each Owner and Occupant also acknowledges the following:

(a) that the Community is located adjacent to thoroughfares and may be affected by traffic and noise from time to time, and such thoroughfares may be improved or widened in the future;

(b) that the views from an Owner's Unit may change over time due to among other things, additional development and the removal or addition of landscaping;

(c) that no representations are made regarding the zoning of adjacent property or that the category to which adjacent property is zoned may not change in the future;

(d) that no representations are made regarding the schools that currently, or which may in the future, serve the Community;

(e) that because in every development there are conditions that different purchasers may find objectionable, including but not limited to traffic congestion and related noise, each Owner acknowledges that there may be conditions outside of the property that such Owner finds objectionable and that it shall be the sole responsibility of such Owner to become acquainted with neighborhood conditions that could affect the Unit;

(f) that Declarant will be constructing portions of the Community and adjacent property and may engage in other construction activities related to other portions of the development and such adjacent property. Such construction activities may, from time to time, produce certain conditions within or in the vicinity of the Community, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) noxious, toxic, or corrosive fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) unusual fire or explosion hazards; (vii) temporary interruption of utilities; and/or (viii) other conditions that may threaten the security or safety of Persons in the Community.

Notwithstanding the foregoing, each Owner agrees that such conditions in the Community resulting from construction activities shall not be deemed a nuisance or discomfort to Owner and shall not cause Declarant and its representatives or agents to be deemed in violation of any provision of this Declaration; and

10.21 Cumulative Effect; Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control.

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Declarant herein has caused this Declaration to be executed under seal, this 5<sup>th</sup> day of October, 2020.

**DECLARANT:**

WYLIE ROAD COMMUNITY, LLC

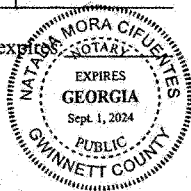
By: \_\_\_\_\_  
Its: Member

Signed, sealed and delivered in  
the presence of:

Christina Pailan  
Unofficial Witness

Sworn to and subscribed before  
me, this 5<sup>th</sup> day of October, 2020

Natalio Mora C.  
Notary Public  
My commission expires \_\_\_\_\_



## EXHIBIT "A" - PROPERTY INITIALLY SUBJECTED TO THIS DECLARATION

As to tract 1:

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Land Lot 575 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, in the City of Marietta, and more particularly described as follows: Beginning at a pin found at the northeast corner of Land Lot 574, being also the southeast corner of Land Lot 575, thence North 89 degrees, 24 minutes, 25 seconds West along the southern boundary of Land Lot 575 a distance of 346.19 feet to a pin found, thence North 5 degrees, 46 minutes, 27 seconds West along the easterly boundary of property belonging to E. Neil Bishop a distance of 272.18 feet to a pin found, thence North 85 degrees, 55 minutes, 18 seconds East a distance of 375.50 feet to a pin found, thence South 0 degrees, 11 minutes, 19 seconds West along the eastern boundary of Land Lot 575 a distance of 301.09 feet to the point of beginning, all as reflected on Exhibit A, being a plat prepared for Neil Bishop by Acme American, LLC, dated November 2009. **This is a portion the same property conveyed to Claude E. Mitchell, Jr., and Anne Bishop Mitchell by Executor's Deed dated March 20, 1974, and recorded at Deed Book 1511, page 103 in the deed records of the Clerk of Superior Court of Cobb County, Georgia; said Claude E. Mitchell, Jr., being deceased and his interest in said tract having been inherited by his wife Anne Bishop Mitchell.**

As to tract 2:

All that tract or parcel of land lying and being in Land Lot 575 of the 17th District, 2nd Section, Cobb County, Georgia, which is more particularly described as follows:

Beginning at a point on the easterly side of Wylie Road where the same is intersected by the south line of Land Lot 575; running thence Northwesterly along the easterly side of Wylie Road 280.74 feet; running thence North 85 degrees, 31 minutes East along a fence 267.5 feet; running thence South 5 degrees, 14 minutes East along the fence 273.1 feet to the south line of Land Lot 575; running thence North 88 degrees, 27 minutes West 158.2 feet to the easterly side of Wylie Road and the point of beginning, being 1.27 acres as shown on a plat made for E. Neil Bishop by W.L. Bishop, Registered Surveyor, dated December 20, 1969.

**As to tract 3:**

All that tract or parcel of land lying and being in Land Lots 574 and 575 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin at the southeast corner of Land Lot 575 (the same being the northeast corner of Land Lot 574) and running thence South 0° 40' West along the east line of Land Lot 574 a distance of 85.0 feet to a point; running thence South 38° 23' West 379.0 feet to an iron pin on the northeasterly right of way of Wylie Road (40 foot right of way); running thence northwesterly along the northeasterly right of way of Wylie Road along an arc a distance of 99.58 feet, said arc having a chord of North 54° 02' West a chord distance of 99.55 feet; continue thence northwesterly along the northeasterly right of way of Wylie Road along an arc a distance of 97.74 feet, said arc having a chord of North 44° 24' West and chord distance of 99.71 feet; continue thence northwesterly along the northeasterly right of way of Wylie Road along an arc a distance of 98.00 feet, said arc having a chord of North 27° 56' West and chord distance of 77.97 feet; continue thence northwesterly along the northeasterly right of way of Wylie Road along an arc a distance of 99.57 feet, said arc having a chord of North 21° 14' West and chord distance of 99.55 feet; continue thence northwesterly along the northeasterly right of way of Wylie Road along an arc a distance of 95.66 feet, said arc having a chord of North 23° 03' West and chord distance of 95.64 feet to a point; running thence South 88° 27' East along the north line of Land Lot 574 a distance of 158.2 feet to a point; running thence North 05° 14' West a distance of 273.1 feet; running thence North 86° 55' East a distance of 375.5 feet to a point; running thence South 0° 40' West a distance of 301.6 feet to an iron pin at the southeast corner of Land Lot 575 and the point of beginning.

**LESS AND EXCEPT:**

All that tract or parcel of land lying and being in Land Lot 575 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, in the City of Marietta, and more particularly described as follows:

Beginning at a pin found at the northeast corner of Land Lot 574, also being the southeast corner of Land Lot 575, thence North 89° 24' 25" West along the southern boundary of Land Lot 575 a distance of 346.19 feet to a pin found, thence North 5° 46' 27" West along the easterly boundary of property belonging to E. Neil Bishop a distance of 272.18 feet to a pin found, thence North 85° 55' 18" East a distance of 375.50 feet to a pin found, thence South 0° 11' 19" West along the eastern boundary of Land Lot 575 a distance of 301.09 feet to the point of beginning.

As to tract 4:

All that tract or parcel of land lying and being in Land Lots 574 and 579 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, being 7.89 acres according to a plat of survey prepared for W. L. Bishop, Surveyor, dated June 30, 1973, which said property is more particularly described as follows:

BEGINNING at an iron pin located at the northwest corner of Land Lot 579 in said District and Section; running thence North 88 degrees east along the north original line of said Land Lot 579 and a fence line a distance of 674 feet to a 15 inch post oak tree; running thence South 0 degrees, 40 minutes west 167.4 feet to a point at a fence corner; thence South 48 degrees, 47 minutes west 729.66 feet to an iron pin on the northeasterly side of Wythe Road; thence northwesterly along the northeasterly line of Wythe Road and following the curvature thereof 445.8 feet to an iron pin; thence North 33 degrees, 23 minutes east 379 feet to an iron pin; thence North 00 degrees, 40 minutes east 85 feet to the northwest corner of said Land Lot and the Point of Beginning.

**LESS AND EXCEPT** that portion of the above described property conveyed to Franklin Woods Associates, et al, by virtue of that certain Warranty Deed dated February 22, 1982, recorded in Deed Book 2476, page 219, Cobb County, Georgia records, said tract being described as follows:

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Land Lot 579 of the 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, and being more particularly described as follows:

Commencing at an iron pin located a distance of 346.36 feet as measured from the common corner of Land Lots 578, 579, 574 and 575 of said district and county as measured along the north line of Land Lot 579 from said common corner south 89°42'31" east; thence running south 89°42'31" east a distance of 130 feet to an oak tree located on the north line of Land Lot 579; running thence south 00°47'07" west a distance of 547.57 feet to a fence corner; running thence south 45°50'17" east a distance of 467 feet to a point; running thence south 07°40'21" east a distance of 141.23 feet to an iron pin; running thence north 91°14'47" east a distance of 109.39 feet to an oak tree; running thence south 45°50'17" east a distance of 31.53 feet to an iron pin; running thence south 71°05'18" west a distance of 525.33 feet to a point located on the eastern side of the right-of-way of Wythe Road (a 40 foot right-of-way); running thence north 17°35'34" west a distance of 57.85 feet to a point; running thence north 19°29'27" west a distance of 50.01 feet to a point; running thence north 34°47'57" west a distance of 50.65 feet to a point; running thence north 39°33'27" west a distance of 50.95 feet to a point; running thence north 35°30'53" west a distance of 50.60 feet to a point; running thence north 42°28'40" west a distance of 99.43 feet to a point; running thence north 46°36'36" west a distance of 109.94 feet to a point; running thence north 45°39'18" west a distance of 277.83 feet to an iron pin; running thence north 48°54'07" east a distance of 188.8 feet to an iron pin; running thence north 00°17'29" east a distance of 456.95 feet to an iron pin, said point being the Point of Beginning; said property containing 12.103 acres and being shown as Tract B on that certain survey prepared for American Realty Partners, Ltd. by Carl M. Maddox dated January 24, 1987.

**EXHIBIT "B"**  
**(Permitted Exceptions)**

1. General and special taxes and assessments for 2020 and subsequent years, not yet due and payable.
2. Sewer Easement to the Board of Lights and Water Works dated October 16, 1980, recorded in Deed Book 2308, Page 468.
3. Sewer Easement to the Board of Lights and Water Works dated October 16, 1980, recorded in Deed Book 2308, Page 472.
4. Storm Sewer Easement Agreement by and between E. Neil Bishop and Donald C. Wright, Kenneth W. Fletcher, G. Howard Robins and Howard W. Smith dated April 13, 1984, recorded in Deed Book 3088, Page 288.

EXHIBIT "B" - ADDITIONAL PROPERTY

Any property within a five (5) mile radius of the Property described on Exhibit "A".

**EXHIBIT "C"**

**BYLAWS**

**OF**

**TOWNES AT MARIETTA PROPERTY OWNERS'**  
**ASSOCIATION, INC.**



Prepared by:  
FRANK R. OLSON, Esq.  
COBB, OLSON & ANDRLE, LLC  
Attorneys at Law  
500 Sugar Mill Road, Suite 160-B  
Atlanta, GA 30350

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**BY-LAWS**

**OF**

**TOWNES AT MARIETTA PROPERTY OWNERS'**  
**ASSOCIATION, INC.**

**ARTICLE I – NAME AND DEFINITIONS**

**Section 1. Name.** The name of the Association shall be Townes at Marietta Property Owners Association, Inc. (hereinafter the "Association").

**Section 2. Definitions.** The words used in these By-Laws shall have the same meaning as set forth in said Declaration of Covenants, Conditions, Restrictions, and Easements for Townes at Marietta (hereinafter the "Declaration").

**ARTICLE II - ASSOCIATION: MEETINGS, QUORUM VOTING, PROXIES**

**Section 1. Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors in Cobb County, Georgia or as convenient thereto as is possible and practical.

**Section 2. Annual Meetings.** Annual meetings shall be set by the Board of Directors from time to time at any time, date and place agreed upon by the Board of Directors. If the day for the annual meeting is inadvertently set for a legal holiday, the meeting will be held at the same hour on the first day following such legal holiday (excluding Saturday and Sunday).

**Section 3. Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of the Board of Directors or, after Buildout, by a petition signed by at least twenty-five (25%) percent of the total votes of the Association. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4. Notice of Meetings.** Written notice of each annual and special meeting of the Members shall be given by or at the direction of the Secretary or any person or persons authorized to call a meeting by mailing a copy of such notice, postage prepaid, at least ten (10) days, but not more than thirty (30) days, before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of the notice. The notice shall state the time, date and place where such meeting is to be held and, in the case of a special meeting, the purpose of the special meeting.

**Section 5. Waiver of Notice.** Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to holding the meeting or transacting business at the meeting, at the beginning of the meeting. Attendance at a meeting shall also be deemed waiver of the objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

**Section 6. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. If the new date, time, and place is announced at the original meeting before adjournment, then notice need not be given of the new date, time or place. If a quorum is present, any business which might have been transacted at the meeting originally called may be transacted at the adjourned meeting.

**Section 7. Voting.** The voting rights of the Members shall be as set forth in the Declaration and Articles of Incorporation, which voting rights are specifically incorporated herein. Unless otherwise required by the Declaration, the affirmative vote of a Majority of the votes cast at a meeting at which a quorum is present shall be the act of the Membership.

**Section 8. Proxies.** At all meetings of Members, each member may vote in Person or by proxy, as further may be limited by the terms of the Declaration. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable. Each proxy shall automatically cease upon a member's criteria for Membership ceasing to exist or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

**Section 9. Quorum.** Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of at least twenty percent (20%) of the total votes existing in the Association shall constitute a quorum at all meetings of the Association. In the event a quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the quorum required at the first meeting. Any provision in the Declaration concerning quorum is specifically incorporated herein.

**Section 10. Conduct of Meetings.** The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat.

**Section 11. Record Date.** The Association may establish such record dates for Membership as may be authorized by the Georgia Nonprofit Corporation Act or applicable Georgia law.

**Section 12. Action by Written Ballot.** Any action to be taken at any annual, regular or special

meeting of Members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of any action shall be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirement; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of Members filed in the permanent records of the Association.

**Section 13. Action by Written Consent.** Any action to be taken at any annual, regular or special meeting of the Members may be taken without a meeting if one (1) or more consents, in writing, setting forth the action so taken, shall be signed and dated by Members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first Member signs and consent. Such action shall be approved when the Secretary receives a sufficient number of such consents. Such action shall be approved when the Secretary receives a sufficient number of such consents. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives notice of the approval to all Members who did not sign a consent. Each consent shall be included in the minutes of meetings of Members filed in the permanent records of the Association. No Consent shall be valid unless: (1) the consenting Member has been furnished the same material that, pursuant to the Georgia Nonprofit Corporation Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the Members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished.

### **ARTICLE III - BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS**

#### **A. Composition and Selection.**

**Section 1. Governing Body Composition.** The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the directors shall be Members or spouses of Members; provided, however, that no person and his or her spouse may serve on the Board at the same time. Directors do not have to reside in the Community.

**Section 2. Directors During Declarant Control.** The initial directors shall be selected by the Declarant, acting in its sole discretion, and shall serve at the pleasure of the Declarant so long as the Class "B" Membership exists as set forth in the Declaration. The Directors selected by the

Declarant need not be Members of the Association nor residents in the Community. The number of directors serving on the Declarant appointed Board shall be determined by the Declarant.

**Section 3. Election and Term of Office.** Not later than ninety (90) days after the Class "B" Membership terminates, as provided in the Declaration, the Association shall call a special meeting of the Members at which the Owners shall elect three (3) directors. The term of two (2) directors shall be fixed at two (2) years and the term of one (1) director shall be fixed at one (1) year. After the expiration of the initial term of office of each director, all directors shall be elected to serve for terms of two (2) years. Members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

**Section 4. Nominations of Directors.** Nominations for election to the Board of Directors shall be made by any Member prior to and at the meeting at which directors shall be elected. A nominating committee may be appointed by the Board of Directors which shall seek out nominations of candidates for election to the Board of Directors.

**Section 5. Vacancies.** After the termination of the Class "B" Membership, any vacancy in the Board of Directors arising from the resignation of a director may be filled for the unexpired term by a majority of the remaining directors then in office.

**Section 6. Removal of Directors.** Upon the termination of the Class "B" Membership, at any regular or special meeting of the Association duly called, any one or more of the Members of the Board of Directors may be removed, with or without cause, by a majority of the Members authorized to vote for directors and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

## **B. Meetings.**

**Section 7. Organization Meeting.** The first meeting of the Members of the Board of Directors following each annual meeting of the Membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

**Section 8. Regular Meeting.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of the time and place of each regular meeting shall be given by the secretary either personally or by telephone or by mail not less than seven (7) days or no more than thirty (30) days before such regular meeting.

**Section 9. Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President on his own motion or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice of any special meeting shall be given by the secretary personally or by telephone or by mail at least twenty-four (24) hours before such meeting.

**Section 10. Waiver of Notice.** The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly

held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice. The waiver of notice need not specify the purpose of the meeting. A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

**Section 11. Quorum; Vote Required for Action.** At all meetings of the Board of Directors, the presence of a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors in attendance at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, so long as any action taken is approved by at least a majority of all of the directors.

**Section 12. Compensation.** No director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

**Section 13. Telephone and Similar Meetings.** Directors may participate in and hold a meeting by means of telephone or similar communication whereby all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute the presence in person at the meeting except where a director participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that a meeting is not lawfully called or convened.

**Section 14. Executive Session.** By the majority vote of the directors at a meeting at which a quorum is present, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a sensitive nature.

**Section 15. Action Without a Formal Meeting.** Any action to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board may be taken without a meeting if such action is evidenced by written consents, setting forth the action so taken, signed by at least a majority of the directors; provided that such action is taken in accordance with the Georgia Non-Profit Corporation Code.

**Section 16. Adjournments.** A meeting of the Board of Directors, whether or not a quorum is present, may be adjourned by a majority of the directors present, to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting which was adjourned.

## **C. Powers and Duties.**

**Section 17. Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the

Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Members.

**Section 18. Management Agent.**

(a) The Board of Directors may employ for the Association a professional management agent or agents, at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these. By-Laws. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year. The Board shall use reasonable efforts to enter into a management contract that permits termination by either party, without cause and without termination fee, on ninety (90) days' or less written notice.

**ARTICLE IV - OFFICERS**

**Section 1. Officers.** The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer. The Board of Directors may elect such other officers' including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person. The President, Secretary, Vice President and Treasurer shall be elected from among the Members of the Board of Directors.

**Section 2. Election, Term of Office, and Vacancies.** The Officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 3. Removal.** Any officer may be removed by a majority vote of the Board of Directors, a quorum being present, whenever in its judgment the best interests of the Association will be served thereby.

**Section 4. Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget, as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 5. Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

## **ARTICLE V - COMMITTEES**

**Section 1. General.** Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

**Section 2. Term of Appointment.** Each member of a committee shall continue to serve until the next annual meeting of the Board of Directors and until his successor is appointed, unless the committee shall be sooner terminated or unless the member shall be removed from such committee or shall resign. Each member of a committee may be removed with or without cause by the Board of Directors at any time.

**Section 3. Vacancies.** Vacancies in the membership of any committee may be filled by appointments made in the same manner as the original appointments.

**Section 4. Quorum.** Unless otherwise provided in the resolution of the Board of Directors designating a committee, the presence of a majority of the committee members shall constitute a quorum. The act of a majority of the members of a committee shall be the act of the committee.

**Section 5. Rules.** Each committee may adopt rules for its own operation so long as such rules are approved by the Board of Directors and are not inconsistent with the Declaration, the By- Laws or the rules adopted by the Board of Directors.

## **ARTICLE VI - MISCELLANEOUS**

**Section 1. Indemnification.** Indemnification of officers, directors, agents, employees and committee Members of the Association shall be as set forth in Declaration.

**Section 2. Deposits.** All funds of the Association shall be deposited from time to time in bank accounts or other depositaries of the Association as the Board of Directors may select.

**Section 3. Conflicts.** If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

**Section 4. Books and Records.** The Association shall keep correct and complete books and records of the Association and its accounts and shall keep minutes of all proceedings of the Board of Directors and committees having any authority of the Board of Directors. The books and records of the Association shall be available for inspection by Members in accordance with the Declaration.

**Section 5. Notices.** Except as otherwise set forth herein, all notices under these Bylaws or the Declaration shall be in writing, and shall be addressed to a Member at the address of his or her Lot and to the Declarant and to the Association at the addresses of their respective registered agents on file with the Secretary of State of the State of Georgia. Any Member may designate a different address, including an electronic mail address, for notice to such Member by giving written notice to the Association. Members shall keep the Association advised of their current address and telephone number(s) where they can be contacted. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act." The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run on the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

**Section 6. Amendment.** These By-Laws may be amended only by the affirmative vote or written consent of a majority of the Members of the Board of Directors of the Association after the Conversion Date. Prior to the Conversion Date, these By-Laws may be unilaterally amended by the Declarant.

**Section 7. Tax-Exempt Status.** The affairs of the Association at all times shall be conducted in such a manner as assure the Association's status as an organization qualified for exemption from taxation pursuant to Section 528 of the Internal Revenue Code remains unaffected.

**Section 8. Construction.** Whenever the context so requires, the masculine gender shall include the feminine and neuter gender, and singular shall include the plural, and vice versa. If any provision of these By-Laws shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of these By-Laws.

**Section 9. Headings.** The Article and Section headings herein contained are for convenience of reference only and shall not be deemed to impart substantive meaning to any provision of these By-Laws.