

UPON RECORDING RETURN TO:  
Michael E. Leavey  
DOROUGH & DOROUGH, LLC  
Attorneys at Law  
160 Clairemont Avenue, Suite 650  
Decatur, Georgia 30030  
(404) 687-9977

---

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
CANTON STREET COMMONS

---

THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION, BUT DOES NOT SUBMIT THE COMMUNITY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, *ET SEQ.* OR THE PROVISIONS OF THE GEORGIA CONDOMINIUM ACT, O.C.G.A. § 44-3-70, *ET SEQ.*

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
 RESTRICTIONS AND EASEMENTS  
 FOR  
 CANTON STREET COMMONS  
 - TABLE OF CONTENTS -

	<u>Page Number</u>
<b>ARTICLE 1 <u>DEFINITIONS</u></b> .....	<b>1</b>
1.1 " <u>APPROVED BUILDER</u> " .....	1
1.2 " <u>ARTICLES OF INCORPORATION</u> " .....	2
1.3 " <u>ASSOCIATION</u> " .....	2
1.4 " <u>BOARD OF DIRECTORS</u> " OR " <u>BOARD</u> " .....	2
1.5 " <u>BYLAWS</u> " .....	2
1.6 " <u>COMMON PROPERTY</u> " .....	2
1.7 " <u>COMMUNITY</u> " .....	2
1.8 " <u>COMMUNITY-WIDE STANDARD</u> " .....	2
1.9 " <u>DECLARANT</u> " .....	2
1.10 " <u>DETACHED LOT</u> " .....	2
1.11 " <u>EXCLUSIVE LAND USE EASEMENT AREA</u> " .....	3
1.12 " <u>LOT</u> " .....	3
1.13 " <u>MORTGAGE</u> " .....	3
1.14 " <u>MORTGAGEE</u> " .....	3
1.15 " <u>OCCUPANT</u> " .....	3
1.16 " <u>OWNER</u> " .....	3
1.17 " <u>PERSON</u> " .....	3
1.18 " <u>SUPPLEMENTARY DECLARATION</u> " .....	3
1.19 " <u>TOTAL ASSOCIATION VOTE</u> " .....	3
1.20 " <u>TOWNHOME LOT</u> " .....	4
<b>ARTICLE 2 <u>PROPERTY SUBJECT TO THIS DECLARATION</u></b> .....	<b>4</b>
2.1 <u>PROPERTY HEREBY SUBJECTED TO THIS DECLARATION</u> .....	4
2.2 <u>UNILATERAL ANNEXATION BY DECLARANT</u> .....	4
2.3 <u>ANNEXATION BY ASSOCIATION</u> .....	5
2.4 <u>WITHDRAWAL OF PROPERTY</u> .....	5
<b>ARTICLE 3 <u>ASSOCIATION MEMBERSHIP AND VOTING RIGHTS</u></b> .....	<b>5</b>
3.1 <u>MEMBERSHIP</u> .....	5
3.2 <u>VOTING</u> .....	6
<b>ARTICLE 4 <u>ASSESSMENTS</u></b> .....	<b>6</b>
4.1 <u>PURPOSE OF ASSESSMENTS</u> .....	6
4.2 <u>CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS</u> .....	6
4.3 <u>BUDGET</u> .....	7
4.4 <u>GENERAL ASSESSMENTS</u> .....	7
4.5 <u>SPECIAL ASSESSMENTS</u> .....	7
4.6 <u>SPECIFIC ASSESSMENTS</u> .....	8
4.7 <u>TOWNHOME LOT ASSESSMENTS</u> .....	8
4.8 <u>SUBORDINATION OF LIENS TO MORTGAGES</u> .....	9
4.9 <u>REMEDIES OF THE ASSOCIATION</u> .....	10
4.10 <u>DATE OF COMMENCEMENT OF ASSESSMENTS</u> .....	10

4.11 BUDGET DEFICITS DURING DECLARANT CONTROL ..... 11

4.12 FAILURE TO ASSESS ..... 11

4.13 ESTOPPEL LETTER..... 11

4.14 WORKING CAPITAL CONTRIBUTION..... 11

4.15 SUSPENSION OF SERVICES PROVIDED BY ASSOCIATION..... 12

4.16 UTILITY CHARGES..... 12

**ARTICLE 5 MAINTENANCE; COMMON PROPERTY..... 13**

5.1 ASSOCIATION'S MAINTENANCE RESPONSIBILITY ..... 13

5.2 MAINTENANCE OF LOTS..... 14

5.3 LANDSCAPING MAINTENANCE ..... 16

5.4 CONVEYANCE OF COMMON PROPERTY BY DECLARANT TO ASSOCIATION; NO IMPLIED RIGHTS ..... 17

5.5 PARTITION..... 18

5.6 CONDEMNATION..... 18

5.7 LIABILITY..... 18

5.8 PARTY WALLS..... 19

5.9 GARBAGE PICK-UP AND RECYCLING ..... 19

5.10 PEST CONTROL ..... 20

**ARTICLE 6 ARCHITECTURAL STANDARDS ..... 20**

6.1 GENERAL..... 20

6.2 GUIDELINES AND PROCEDURES ..... 21

6.3 ARCHITECTURAL GUIDELINES..... 22

6.4 LIMITATION OF LIABILITY..... 22

6.5 NO WAIVER..... 22

6.6 VARIANCES ..... 23

6.7 ENFORCEMENT..... 23

6.8 ARCHITECTURAL REVIEW BY DECLARANT ..... 23

**ARTICLE 7 USE RESTRICTIONS AND RULES ..... 24**

7.1 RULES AND REGULATIONS ..... 24

7.2 RESIDENTIAL USE ..... 24

7.3 SIGNS ..... 25

7.4 VEHICLES; PARKING..... 25

7.5 ANIMALS AND PETS..... 27

7.6 NUISANCE ..... 28

7.7 UNSIGHTLY OR UNKEMPT CONDITIONS..... 28

7.8 ANTENNAE..... 29

7.9 TREE REMOVAL..... 29

7.10 DRAINAGE ..... 29

7.11 SIGHT DISTANCE AT INTERSECTIONS ..... 29

7.12 GARBAGE CANS, WOODPILES, ETC..... 29

7.13 SUBDIVISION OF LOT..... 30

7.14 FENCES ..... 30

7.15 UTILITY LINES ..... 30

7.16 AIR-CONDITIONING UNITS..... 30

7.17 LIGHTING..... 30

7.18 ARTIFICIAL VEGETATION, GARDENS, PLAY EQUIPMENT, EXTERIOR SCULPTURE, WATER FEATURES AND SIMILAR ITEMS ..... 31

7.19 FLAGS ..... 31

7.20 CONSERVATION EQUIPMENT..... 31

7.21 SWIMMING POOLS..... 31

7.22 CLOTHESLINES..... 31

7.23 ENTRY FEATURES ..... 32

7.24 WINDOW TREATMENTS..... 32

7.25 STORM AND SCREEN DOORS AND WINDOWS; PET DOORS..... 32

7.26	<u>GARAGE SALES</u> .....	32
7.27	<u>OUTBUILDINGS AND SIMILAR STRUCTURES</u> .....	32
7.28	<u>DECKS, PATIOS AND PORCHES</u> .....	32
7.29	<u>EXTERIOR DRAPERY</u> .....	33
7.30	<u>EXTERIOR SPEAKERS</u> .....	33
7.31	<u>TRAFFIC REGULATIONS</u> .....	33
7.32	<u>STORM WATER DETENTION/RETENTION PONDS, CREEKS AND STREAMS</u> .....	33
7.33	<u>HEATING OF TOWNHOME LOTS IN COLDER MONTHS</u> .....	34
7.34	<u>MEASURES RELATED TO INSURANCE COVERAGE</u> .....	34
7.35	<u>YARDS</u> .....	34
<b>ARTICLE 8 <u>RESTRICTION ON LEASING</u></b> .....		<b>35</b>
8.1	<u>GENERAL</u> .....	35
8.2	<u>TRANSIENT RENTALS</u> .....	36
8.3	<u>EXEMPTION</u> .....	36
<b>ARTICLE 9 <u>INSURANCE AND CASUALTY LOSSES</u></b> .....		<b>37</b>
9.1	<u>INSURANCE OBTAINED BY ASSOCIATION</u> .....	37
9.2	<u>INSURANCE OBTAINED BY LOT OWNERS</u> .....	37
9.3	<u>DAMAGE AND DESTRUCTION -- INSURED BY ASSOCIATION</u> .....	38
9.4	<u>DAMAGE AND DESTRUCTION -- INSURED BY OWNERS</u> .....	38
9.5	<u>INSURANCE ON TOWNHOME LOTS</u> .....	39
<b>ARTICLE 10 <u>EASEMENTS</u></b> .....		<b>39</b>
10.1	<u>GENERAL</u> .....	39
10.2	<u>EASEMENTS FOR USE AND ENJOYMENT</u> .....	39
10.3	<u>EASEMENTS FOR UTILITIES</u> .....	41
10.4	<u>EASEMENT FOR EMERGENCY ENTRY</u> .....	42
10.5	<u>EASEMENT FOR ASSOCIATION MAINTENANCE</u> .....	42
10.6	<u>EASEMENT FOR LOT MAINTENANCE</u> .....	42
10.7	<u>EASEMENT FOR ENTRY FEATURES AND STREETSCAPES</u> .....	42
10.8	<u>EASEMENT FOR DRAINAGE</u> .....	43
10.9	<u>EASEMENT DURING CONSTRUCTION AND SALE PERIOD</u> .....	43
10.10	<u>EASEMENT FOR PRIVATE STREETS, SIDEWALKS AND SIGNS</u> .....	44
10.11	<u>EASEMENT FOR ENCROACHMENT AND OVERHANG</u> .....	45
10.12	<u>EXCLUSIVE LAND USE EASEMENT AREA</u> .....	45
<b>ARTICLE 11 <u>GENERAL PROVISIONS</u></b> .....		<b>46</b>
11.1	<u>ENFORCEMENT</u> .....	46
11.2	<u>OCCUPANTS BOUND</u> .....	46
11.3	<u>SELF-HELP</u> .....	46
11.4	<u>DURATION</u> .....	47
11.5	<u>TERMINATION OF RIGHTS OF DECLARANT AND APPROVED BUILDER</u> .....	47
11.6	<u>AMENDMENT</u> .....	47
11.7	<u>GENDER AND GRAMMAR</u> .....	49
11.8	<u>SEVERABILITY</u> .....	49
11.9	<u>CAPTIONS</u> .....	49
11.10	<u>NO MERGER</u> .....	49
11.11	<u>PREPARER</u> .....	49
11.12	<u>NOTICES</u> .....	49
11.13	<u>NO DISCRIMINATION</u> .....	50
11.14	<u>SECURITY</u> .....	50
11.15	<u>INDEMNIFICATION</u> .....	50
11.16	<u>NOTICE OF SALE OR ACQUISITION</u> .....	51
11.17	<u>AGREEMENTS</u> .....	51
11.18	<u>VARIANCES</u> .....	51

11.19 LITIGATION.....51  
11.20 DISCLOSURES.....51

EXHIBIT "A" - PROPERTY DESCRIPTION

EXHIBIT "B" - ADDITIONAL PROPERTY WHICH MAY BE UNILATERALLY SUBMITTED TO THIS  
DECLARATION BY DECLARANT

EXHIBIT "C" - BYLAWS OF CANTON STREET COMMONS HOMEOWNERS ASSOCIATION, INC.

EXHIBIT "D" - MEETING SUMMARY REGARDING ZONING CONDITIONS

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS

FOR

CANTON STREET COMMONS

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR CANTON STREET COMMONS ("Declaration") is made on the date hereinafter set forth by **CSC DECLARANT, LLC**, a Georgia limited liability company (hereinafter sometimes called "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner (or has the consent of the owner) of the real property described in Exhibit "A" hereof; and

WHEREAS, Declarant (and the owner, if Declarant is not the owner) 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;

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 "Approved Builder" means **PEACHTREE RESIDENTIAL, LLC**, a Georgia limited liability company, and any other a home builder approved by Declarant for the construction of houses on Lots which home builder has been granted rights of Approved Builder hereunder by the Declarant in a written instrument. Declarant may grant rights of Approved

Builder to one or several home builders. Rights of Approved Builder hereunder shall apply only to the Lots which are acquired by the Approved Builder.

1.2 "Articles of Incorporation" means the Articles of Incorporation of Canton Street Commons Homeowners Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference, as may be amended from time to time.

1.3 "Association" means Canton Street Commons Homeowners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

1.4 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to operate and manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-101, *et seq.*

1.5 "Bylaws" means the Bylaws of Canton Street Commons Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference, as may be amended from time to time.

1.6 "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.

1.7 "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.

1.8 "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.

1.9 "Declarant" means **CSC DECLARANT, LLC**, a Georgia limited liability company, and its successors, successors-in-title or assigns 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. No transfer or assignment of the rights of Declarant provided for herein shall be effective unless it is in a written instrument signed by Declarant and recorded in the Fulton County, Georgia land records.

1.10 "Detached Lot" means any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site, which dwelling will not be attached by one or more party walls to another dwelling, as shown on a plat recorded in the Office of the Clerk of

Superior Court of Fulton County, Georgia. The ownership of each Detached Lot shall include, and there shall automatically pass with the title to each Detached Lot as an appurtenance thereto, whether or not separately described, membership in the Association and all rights and interest of an Owner in and to the Common Property, as herein provided.

1.11 "Exclusive Land Use Easement Area" means a portion of a Detached Lot adjacent to the courtyard area of another Detached Lot, respectively, which portion is an area of property extending from the front boundary line to the rear boundary line of the subject Detached Lot and situated between and being bounded on one side by the property boundary line common to said adjacent Detached Lots and extending therefrom to a line running parallel to and contiguous with the exterior surface of a dwelling structure located on said subject Detached Lot. Said Exclusive Land Use Easement Area is appurtenant to and benefits the Detached Lot which contains a courtyard area adjacent to the Exclusive Land Use Easement Area as provided in Section 10.12 hereof.

1.12 "Lot" shall mean either a Detached Lot or a Townhome Lot. The ownership of each Lot shall include, and there shall automatically pass with the title to each Lot as an appurtenance thereto, whether or not separately described, membership in the Association and all of the rights and interest of an Owner in and to the Common Property, as herein provided.

1.13 "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.

1.14 "Mortgagee" means the holder of a Mortgage.

1.15 "Occupant" means any Person occupying all or any portion of a Lot for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.16 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.17 "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.

1.18 "Supplementary Declaration" means a supplement to this Declaration which subjects additional property to the provisions of this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.19 "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.

1.20 "Townhome Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single family dwelling site which will be attached by one or more party walls to another single family dwelling located on an adjacent Townhome Lot. Where the residential dwelling located on a Townhome Lot is attached by a party wall to one or more other residential dwellings located on adjacent Townhome Lots, the boundary between such residential dwellings shall be a line running along the center of the party wall separating said residential dwellings. In the event of any discrepancy between the boundaries of a Townhome Lot, as described herein, and the boundaries of such Townhome Lot when shown on the recorded subdivision plat(s) for the Community, the description of the boundaries of the Townhome Lot set forth herein shall control. The ownership of each Townhome Lot shall include, and there shall automatically pass with the title to each Townhome Lot as an appurtenance thereto, whether or not separately described, membership in the Association and all of the rights and interest of an Owner in and to the Common Property, as herein provided.

## 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 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 Fulton County, Georgia land records a Supplementary Declaration describing the property being subjected. Any annexation shall be effective upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein. Inclusion of property on Declarant's land plan or in Exhibit "B" shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land plan bar Declarant from subjecting such property to the Declaration. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as the rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character

of any such annexed real property. If any land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, regardless of whether such uses are consistent with the covenants and restrictions imposed herein.

2.3 Annexation by the Association. Upon the written consent of: (a) the owner(s) thereof; (b) the Declarant; and (c) the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Fulton 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 Fulton County, Georgia land records, unless a later effective date is provided therein.

2.4 Withdrawal of Property. Declarant shall have the right to amend the Declaration to remove any portion of the Community 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 the filing for record of 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 Fulton County, Georgia land records, unless a later effective date is provided therein. Such amendment shall be executed by the Declarant and the Owner(s) of the property being removed and shall not require the vote or consent of any other Lot Owners or Persons.

### 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 Lot 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 Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. 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 officers and directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to cast one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Lot shall be suspended in the event more than one (1) Person seeks to exercise it. The Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, rules and regulations of the Association or Architectural Guidelines, established pursuant to Article 6 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 Lots, 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. Each Owner of a Lot, 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: (a) general assessments; (b) special assessments; (c) specific assessments; and (d) Townhome Lot assessments, if applicable. 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), interest (in an amount equal to ten percent (10%) per annum on the principal amount due, but not to exceed the maximum rate permitted by law) 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 Lot against which each assessment is made. As provided in O.C.G.A. Section 44-5-60(e), the obligation for the payment of assessments and fees arising hereunder shall also include the costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, and the award of attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien 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 Lot 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 Lot, 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. No

Owner 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: (a) abandonment of the Lot; (b) nonuse of the Common Property; (c) the Association's failure to perform its obligations required under the Declaration; or (d) 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 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. The Board shall cause the budget and the general assessment to be levied against each Lot for the year to be delivered to each member at least thirty (30) days prior to the due date of such general assessment or the first installment thereof. 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 Lots 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 monthly installments. 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 and other services provided by the Association, if any; (f) costs to maintain the Community entry features, including any electricity and irrigation expenses associated therewith; (g) costs to maintain landscaping in the Community; (h) costs associated with the maintenance of the storm water detention/retention pond(s) and storm water drainage facilities serving the Community; (i) costs to maintain and repair the private Community streets, sidewalks, street signs and street lights; (j) costs to maintain the centralized mailboxes and mailboxes located thereon; (k) costs to maintain fencing located on the Common Property, if any; and (l) 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 unbudgeted or unanticipated expenses or expenses in excess of those budgeted. So long as the total amount of special

assessments allocated to each Lot in a fiscal year does not exceed the amount of the annual general assessment in such fiscal year, the Board may impose the special assessment without a vote of the Owners. Except for special assessments levied pursuant to Section 8.3 hereof, any special assessment which would cause the total amount of the special assessments allocated to any one (1) Lot 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 this Declaration; (c) the cost of maintenance performed by the Association for which an Owner is responsible; and (d) the costs of providing utilities or services to the Lot.

In addition to the foregoing, the Board of Directors may also specifically assess Owners for Association expenses as follows: (x) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; (y) expenses of the Association which benefit all Lots, but do not provide an equal benefit to all Lots may be specifically assessed equitably among all Lots according to the benefit received; and (z) expenses of the Association which are attributable to or incurred as a result of the conduct of an Owner or the Occupants, guests, tenants, invitees or licensees of the Owner may be specifically assessed against the Lot of such Owner.

#### 4.7 Townhome Lot Assessments.

(a) Townhome Lot Budget. It shall be the duty of the Board to prepare a budget covering the estimated expenses to be incurred during the coming year for the Townhome Lots in the Community which shall include maintenance to the residential dwellings located on Townhome Lots and the costs of maintaining insurance on the Townhome Lots pursuant to Section 9.5 hereof. The Board shall cause a copy of such budget and the Townhome Lot assessment for the coming year to be delivered to each Owner of a Townhome Lot at least thirty (30) days prior to the due date of such assessment or the first installment thereof. The budget and Townhome Lot assessment shall become effective unless disapproved by a majority of the Owners of Townhome Lots and Declarant. Notwithstanding the foregoing, however, in the event the Townhome Lot Owners 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.

(b) General Townhome Lot Assessments. Townhome Lot assessments cover those expenses which are incurred solely for the benefit of the Townhome Lots in the Community. Townhome Lot assessments shall be allocated equally among all Townhome Lots and shall be in addition to the general assessment paid by all Lot Owners in the Community. Townhome Lot assessments 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 Townhome Lot assessment shall be paid in monthly installments.

(c) Special Townhome Lot Assessments. The Association, acting through the Board of Directors, may levy a special assessment against all Owners of Townhome Lots for unbudgeted or unanticipated expenses or expenses associated with the Townhome Lots in excess of those budgeted. So long as the total amount of special assessments allocated to each Townhome Lot does not exceed the total amount of the general assessment and the Townhome Lot assessment in any one fiscal year, the Board may impose the Townhome Lot special assessment without a vote of the Owners of such Townhome Lots. Except for special assessments levied pursuant to Section 9.3 hereof, any Townhome Lot special assessment which would cause the amount of the special assessments allocated to any one (1) Townhome Lot in a single fiscal year to exceed the total amount of the annual general assessment and the Townhome Lot assessment must be approved by Owners of at least two-thirds (2/3) of the Townhome Lots and the Declarant in order to be effective. Townhome Lot special assessments shall be paid as determined by the Board. The Board may permit a Townhome Lot special assessment to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

4.8 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 Lot if, but only if, all assessments and charges with respect to such Lot 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 or the sale or transfer of the Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the Lot pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve the Owner of the Lot of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such Lot 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 or by sale under power); and no sale or transfer of such Lot to the Mortgagee or to any other Person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of such Lot of any personal obligation or relieve such Lot or the then Owner of such Lot from liability for any assessment authorized hereunder that becomes due after such sale and transfer.

4.9 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 or conveyance; 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 determined by the Board of Directors from time to time, but not to exceed 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) and interest (in an amount equal to ten percent (10%) per annum on the principal amount due, but not to exceed the maximum rate permitted by law). As provided in O.C.G.A. Section 44-5-60(e), the obligation for the payment of assessments and fees arising hereunder shall also include costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, and the award of attorneys' fees shall not be 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 Fulton 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 Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also suspend the membership rights of the delinquent Owner, including the right to vote, the right of use and enjoyment in and to the Common Property and the right to receive and enjoy such services and other benefits as may then be provided by the Association which may include, without limitation, the suspension of any utilities or services provided by the Association as set forth in Section 4.15 hereof. Any such 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 Lot in favor of the Association.

4.10 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 Lot on the date that such Lot 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 Lot 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, Approved Builder or any other Person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes.

4.11 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 have no obligation to: (a) advance funds or contributions of services or materials or a combination of services and materials, rather than money (herein collectively called "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 may 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.

4.12 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 for 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.

4.13 Estoppel Letter. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association 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 Lot. 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 Lot. 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 Lot 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.

4.14 Working Capital Contribution. Upon each and every transfer or conveyance of title to a Lot after it has been improved with a residence 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 Lot 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 Lot, 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 Lot who becomes the Owner of a Lot 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 Lot from the foreclosing Mortgagee.

4.15 Suspension of Services Provided by Association. In the event any assessment, fine or other charge or portion or installment thereof is delinquent for sixty (60) days or more, in addition to all other rights provided in this Declaration, the Association shall have the right, upon ten (10) days written notice, to suspend any utility or service, the cost of which is paid for by the Association as a common expense, which shall include, without limitation, water service provided to a Lot, until such time as the delinquent assessments and all costs permitted under this Section, including, without limitation, reasonable attorney's fees actually incurred and any reasonable utility provider charges or other reasonable costs incurred in suspending and/or restoring such services, are paid in full. Said utility services shall not be required to be restored until such delinquent assessments and costs, including, without limitation, any reasonable utility provider charges or other reasonable costs incurred in suspending and/or restoring such services, are paid in full. An Owner whose utility or service has been suspended shall not be entitled to use any such utility or service paid for as a common expense from any source. All Association expenses for terminating and/or restoring any services pursuant to this Section, including reasonable attorneys' fees actually incurred, shall be an assessment and a lien against the Lot and shall be collected as provided herein for the collection of assessments. The notice requirement of this Section shall be deemed complied with if the notice is sent by certified mail, return receipt requested, to the Lot address and to any other address the Owner of the Lot has designated in writing to the Association. Enforcement under this Section is not dependent upon or related to other restrictions and/or other actions, except as provided in this Section.

4.16 Utility Charges. The Community may be served by one (1) or more master utility meters that serve more than one (1) Lot or a Lot and the Common Property. The Association shall be responsible for the administration of expenses associated with any master utility meter(s) serving the Community. The Association shall pay all usage charges for any utility supplied to the Community or any portion thereof through a master utility meter. In the event a Lot is served by a sub-meter which allows the Association to determine the usage or a particular utility attributable to a particular Lot, the Board of Directors may specifically assess such Lot for its share of such usage as a specific assessment as provided herein; provided, however, at the discretion of the Board of Directors, the Association may require each Owner to install separate

utility meters for each Owner's Lot at the Owner's cost, or may install such meters and assess the costs thereof against each Lot as a specific assessment, and all charges for utility usage may be assessed to each Lot for its share as a specific assessment accordingly. The Association shall read, or hire a third-party to read, the sub-meter serving a Lot, if any. The special assessment for utility usage for each Lot shall be determined by the Board of Directors and may be based on the actual amount of such utility used and supplied to each Lot or may be calculated by using estimates based on averages or other techniques, and may include expenses incurred by the Association and/or a reasonable administrative charge associated with the reading of each Lot's sub-meter; so long as the same method is used for each similarly situated Lot. In the event a Lot is not served by a sub-meter, the expenses associated with utility usage in the Community may be assessed as part of the annual assessment and allocated equitably among all of the Lots or may be calculated by using estimates based on averages or other techniques; so long as the same method is used for each similarly situated Lot.

#### Article 5

#### Maintenance; Common Property

5.1 Association's Maintenance Responsibility. 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, structures, and improvements located thereon. The Association shall also maintain (whether or not constituting Common Property) the following: (a) all Community entry features, including, without limitation, any landscaping associated therewith and any irrigation system and/or lighting system which provides water and/or electricity to such entry features, regardless of whether the same are located on a Lot, Common Property, or public right-of-way; (b) all Community green space and open space; (c) all storm water detention/retention pond(s) and storm water drainage facilities serving the Community, if and to the extent such facilities are not maintained by a governmental entity or third party and regardless of whether the same are located on a Lot or Common Property; provided, however, each Owner of a Lot, and not the Association, shall be responsible for the maintenance, repair and replacement of all stormwater drainage facilities which exclusively serve such Lot to the extent not maintained by the Association pursuant to Section 5.2 hereof; provided, further that the Association shall be responsible for keeping in good working order any water quality treatment systems serving the Community or any Lot therein and storm water drainage facilities serving more than one (1) Lot; (d) the private Community streets, sidewalks, street lights, street signs, and any street medians and islands located within the private Community streets; (e) the centralized mailbox area and the mailboxes located thereon; (f) all pipes, wires, conduits and plumbing systems which serve more than one (1) Lot or a Lot and the Common Property; (g) landscape maintenance on Lots, including, but not limited to, lawn mowing and tree and shrub pruning, as provided in Section 5.3 hereof; (h) certain maintenance to the exterior of a residential dwelling located on a Townhome Lot as provided in Section 5.2(c) hereof; (i) freestanding retaining walls located within the Community and installed by Declarant, a builder approved by Declarant, or the Association, regardless of whether the same are located on a Lot or Common Property, and (j) fencing located on the Common Property in the Community, if any.

The Association shall have the right, but not the obligation, to maintain other property not owned by the Association, regardless of whether such property is 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, with the consent of the Declarant and without a vote of the members, shall have the right to enter into easements and covenant to share cost agreements where the Board has determined that such action would benefit the Owners. 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 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 Lot of such Owner as a specific assessment. All maintenance by the Association shall be performed consistent with the Community-Wide Standard.

## 5.2 Maintenance of Lots.

(a) General. Except for maintenance performed on or to a Lot by the Association pursuant to Sections 5.1, 5.2(c) and 5.3 hereof, all maintenance of the Lot and all structures and other improvements located thereon and any Exclusive Land Use Easement Area appurtenant thereto shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. All maintenance to a Lot and any Exclusive Land Use Easement Area appurtenant thereto by the Owner thereof, regardless of whether such Lot is a Townhome Lot or Detached Lot shall include, without limitation, the following: (i) prompt removal of all litter, trash, refuse, and waste; (ii) keeping improvements and exterior lighting in good repair and working order; (iii) keeping driveways and walkways in good repair; (iv) complying with all governmental health, fire safety and police requirements; (v) maintaining grading and storm water drainage as originally established on the Lot; (vi) repairing exterior damage to improvements; and (vii) maintaining, repairing and replacing all pipes, wires, conduits and other apparatus, including, without limitation, heating and air conditioning systems, storm water drainage facilities (except water quality treatment systems maintained by the Association), plumbing, electric and sanitary sewer systems, which exclusively serve the Lot, regardless of whether said pipe(s), wire(s), conduit(s) or apparatus are located within or outside of the Lot's boundaries.

(b) Detached Lots. In addition to the obligations set forth in subsection (a) hereof, the Owner of a Detached Lot shall be responsible for all maintenance, repair and replacement to the residential dwelling located on such Detached Lot, which shall include, but not be limited to, the following: (i) all components of the roof, roof support structures, and joists; (ii) downspouts, gutters, and drainage pipes, inlets and grates exclusively serving the Lot and/or the courtyard and any Exclusive Land Use Easement Area appurtenant thereto (except water quality treatment systems maintained by the Association); (iii) foundations and footings, including waterproofing, both above and below grade; (iv) all exterior building surfaces of the residential dwelling located

on the Detached Lot, including, without limitation, painting and/or pressure washing as needed; (v) all maintenance and repair to any decks, patios or balconies which are located on a Detached Lot; and (vi) all driveways and walkways which exclusively serve the Detached Lot.

(c) Townhome Lots.

(i) By the Association. As provided in Section 5.1 above, the Association shall provide certain maintenance to the exterior portions of the residential dwelling located on a Townhome Lot in the Community. Maintenance to a residential dwelling located on a Townhome Lot shall only include the following: (A) painting, staining, caulking and/or pressure washing the exterior portions of the residential dwelling, as appropriate, on a schedule determined by the Board of Directors in its sole discretion; (B) maintenance, repair and replacement of the roof decking and shingles or other covering and surface materials on the residential dwelling; provided, however, the Association shall not be responsible for any roof support systems, including without limitation, any roof joists or trusses; (C) maintenance, repair and replacement of the downspouts and gutters and any water quality treatment systems serving the Lot, if any; (D) maintenance, repair and replacement of the siding or masonry located on the exterior of the residential dwelling; and (E) maintenance, repair and replacement of all other exterior building surfaces with the exception of doors, windows, hardware, screens and glass as more particularly described below; provided, however, the Association shall not be responsible for waterproofing foundations either above or below grade.

In the sole discretion of the Board, the costs of maintenance of the exterior portions of a Townhome Lot performed by the Association pursuant to this Section, or portions thereof, may be assessed as part of the Townhome Lot assessment and allocated equally among all of the Townhome Lots pursuant to Section 4.7 hereof or may be allocated equitably among similarly situated Townhome Lots and specifically assessed against the applicable Townhome Lot(s) pursuant to Section 4.6 hereof; so long as the same method is used for each Townhome Lot. Notwithstanding the foregoing, 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 Townhome Lots 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.

(ii) By the Townhome Lot Owner. In addition to the obligations set forth in subsection (a) hereof, the Owner of a Townhome Lot shall be responsible for maintaining all portions of the Townhome Lot that are not maintained by the Association pursuant to Section 5.1, Section 5.2(c)(i) and Section 5.3 hereof, including, without limitation, the following: (A) 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; (B) HVAC or similar equipment; (C) all doors and door systems, including screen and storm doors, garage doors, hinges, frames and door frames and hardware which are part of the entry system; (D) hose bibs, vents and other apparatus located on the exterior of the residential dwelling; (E) all exterior lighting fixtures; (F) all windows and window systems, including, without limitation, window

screens, frames, glass and hardware; (G) all exterior hardware; (H) foundations and footings, including waterproofing, either above or below grade; and (J) all driveways and walkways which exclusively serve the Townhome Lot.

Notwithstanding the foregoing, each Owner of a Townhome Lot or a Detached Lot, as applicable shall be obligated to: (X) perform such Owner's maintenance responsibility in such manner so as not to unreasonably disturb other Persons in or on other Lots; (Y) promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible; and (Z) not make any alterations in the portions of the Lot 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 Lot or the structures thereon which would or might increase the Association's maintenance costs or jeopardize or impair the safety or soundness of any Lot or any structure or improvement located thereon, without first obtaining the written consent of the Board and all Owners and Mortgagees of the Lots affected. Each Owner shall also not impair any easement without first obtaining written consent of the Association and of the Owner or Owners and their Mortgagees for whose benefit such easement exists.

(d) Failure 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 hereunder, 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 (10) 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 to the Lot and all costs associated therewith shall be assessed against the Owner and the Lot as a specific assessment. This provision shall not apply to any Lot(s) owned by the Declarant unless improved with a dwelling and occupied as a residence.

5.3 Landscaping Maintenance. As provided in Section 5.1 above, the Association shall perform landscaping on Lots in the Community, which shall be limited to the following: (i) lawn mowing on a regular basis; (ii) tree and shrub pruning; (iii) shrub fertilization; and (iv) such other landscaping to such Lots as may be determined by Board resolution to be in the best interest of the Community. Notwithstanding the foregoing, the Board of Directors in its sole discretion may leave portions of the Community as undisturbed natural areas and may change the landscaping in the Community at any time and from time to time or may, with the consent of the Declarant, change the level of landscaping maintenance performed, so long as all Lots are maintained according to the same standard. In addition, the Association may perform maintenance and repair on any irrigation system installed to primarily serve a Lot and connected to the utility system(s) of that Lot and may charge the costs thereof back to the benefitted Owner as a specific assessment hereunder and may adopt rules and regulations regarding such irrigation

systems, including, without limitation, the operation thereof; provided however, any utility charges associated with such irrigation system shall be the responsibility of such Owner.

The Board of Directors may promulgate rules setting forth the extent of landscaping maintenance to be performed by the Association and the rights of Owners with respect to adding or modifying landscaping improvements, including, for example allowing seasonal flowering plants in certain areas of the Community at the expense of the Owner. Each Owner shall be responsible for maintenance of landscaping improvements installed by the Owner, including, without limitation, any plants, trees or shrubs installed within planters or similar containers. All landscape maintenance performed by an Owner 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 in Section 5.2(d) hereof, be removed from the Community and all costs associated therewith shall be a specific assessment against the Lot of such Owner.

In the event that a fence is erected or installed on a Lot by Declarant or an Owner pursuant to the provisions of Article 6 hereof, the Association shall continue to maintain the area enclosed by said fence; provided, however, the Owner must allow access through an unlocked gate and no pet shall be present in the area at the time of such maintenance in order for the area enclosed by said fence to be maintained by the Association. In the event that the Lot Owner refuses access to the area enclosed by the fence, the gate is locked or a pet is present in such area at the time that maintenance is performed by the Association or its agents, said Owner shall not be entitled to a reduction in the liability for assessments due in the event the Association is unable to maintain the enclosed property and such Owner shall be obligated to maintain such area in a manner consistent with the Community-Wide Standard.

5.4 Conveyance of Common Property by Declarant to Association; No Implied Rights. Declarant or any other property owner with the consent of 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, if and as provided in Section 5.1 hereof, 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 any additional property which may be annexed to the Declaration 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 any 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 on behalf of the Association any conveyance to the Association, to reconvey any such property on behalf of the Association 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 conveyance to or reconveyance from the Association. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. 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 or not any such property has been made available for the use of Owners. 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 any 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 real estate records of Fulton County, Georgia.

5.5 Partition. 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 Lots located within the Community.

5.6 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 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.

5.7 Liability. Owners, Occupants and their guests shall use the common areas maintained by the Association and all other portions of the Community not contained within a Lot, including, without limitation, the Community private streets and sidewalks, 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 and all portions of the Community not contained within a Lot for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, the Declarant, Approved Builder, 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 such Owner or Occupant.

In addition to the foregoing, the Association, the Declarant, Approved Builder, and their respective officers, directors, employees, representatives and agents 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, pond, lake, dam, 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.

5.8 Party Walls. Each wall built as a part of the original construction of the residential dwelling located on a Townhome Lot which shall serve and separate any two (2) residential dwellings on adjacent Townhome Lots 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. To preserve the peace, quiet and enjoyment of the Owners and Occupants of Townhome Lots in the Community, no speaker, audio equipment or sound system shall be installed in or attached to a party wall in any residential dwelling located on a Townhome Lot. 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 time, and in such workmanlike manner with materials comparable to those used in the original wall, 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 such 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.

5.9 Garbage Pick-Up and Recycling. The Association shall have the right, but not the obligation, to designate and contract with a private trash removal company on behalf of all Owners and Occupants in the Community to pick up all usual and customary household trash, recycling, and/or yard waste on a regular basis. In the event the Association enters into a contract with a private waste removal company as provided above, all charges for usual and customary trash, recycling, and/or yard waste removal shall be assessed to each Lot equally as part of the general assessment in accordance with Article 4 hereof. While the removal of normal household trash, recycling, and/or yard waste, as the case may be, will be covered by such contract, additional charges may be incurred for the removal of used appliances, other large items or any other extraordinary pick-up needs and such additional charges incurred by the Association may be specifically assessed against the applicable Lot pursuant to Section 4.6 hereof. If a Lot Owner, for any reason, refuses trash, recycling, and/or yard waste service provided by the Association, such Owner shall nevertheless still be obligated to pay the full amount of the general assessment. All Community trash, recycling, and yard waste removal shall be subject to such further rules and regulations as the Board may adopt, including without



limitation, the designation of a particular trash pick-up day throughout all or a portion of the Community.

5.10 Pest Control. The Association may, but shall have no obligation to, contract to have performed on behalf of the Association, termite and pest control services for the Common Property and the exterior portions of Lots. Additionally, the Association may, but shall have no obligation to, purchase or maintain a termite bond covering the exterior surfaces of structures in the Community for subterranean termites or other pests, which may include optional damage repair or fumigation coverage for any infestation of a Lot, if available at a reasonable price. In the event the Association chooses to provide pest control services, the Association makes no representations or warranties as to the safety or efficacy of the chemicals used or the services provided. Each Owner shall be responsible for maintaining such Owner's Lot and all structures on such Lot, including the residential dwelling and any deck attached thereto, free from any condition conducive to pest infestation and for repairing any damage caused to the Lot due to pest infestation and for obtaining a termite bond, if and to the extent not maintained by the Association, all at such Owner's sole cost and expense. In the event the Association provides any pest control services, including without limitation, a termite bond, Owners shall not take or fail to take any actions which prevent the Association from being able to provide such pest control services and must promptly report to the Association or its agent any pest infestation and/or any damage caused by pest infestation. Each Lot Owner shall afford the Association and its duly authorized agents access through such Lot as may be reasonably necessary to provide pest control services or maintain a termite bond for such Lot, which may include access to the residential dwelling located on such Lot. In the event that an Owner refuses to allow such access, the Association, shall, after twenty-four (24) hours written notice, have the right to enter a Lot to perform the pest control services set forth herein and the Association's Board of Directors, its agents, contractors and sub-contractors shall not be deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions. In the event an Owner refuses access as provided herein, such Owner shall be responsible for any and all costs incurred by the Association, its agents, contractors and sub-contractors to gain access. The Association and its directors, officers, employees and agents shall not be liable for any illness, damage or injury caused by the dispensing of chemicals described therein. Nothing contained herein can be relied upon as a representation as to whether a termite bond or pest control services, if any, will be provided by the Association.

## 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 and 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: (a) installed by the Declarant or an affiliate of the Declarant; (b) approved in accordance with this Article; or (c) otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of a structure

located on a Lot without approval hereunder. However, additions and/or modifications to the interior of courtyards and any Exclusive Land Use Easement Area appurtenant thereto, balconies, porches, patios, decks and similar portions of a structure visible from outside of the dwelling located on a Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure located on a Lot in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to the activities of the Declarant or Approved Builder, nor to improvements to the Common Property by or on behalf of the Association; provided, however, this Article shall apply to any otherwise unaffiliated builder under this Declaration. This Article may not be amended without the written consent of the Declarant until: (x) Declarant's rights and Approved Builder's rights under the Declaration have terminated as provided in Section 11.5 hereof; and (y) each Lot 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, applicable Architectural Guidelines or any other provisions of the Declaration. If the Declarant fails to approve or disapprove submitted plans and specifications within forty-five (45) days after receipt of all required information, 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 and specifications 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 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 herein shall be construed as permitting the Association to enter any residential dwelling located on a Lot without the consent of the Owner thereof.

Approval granted pursuant to this Article 6 shall not be or constitute a modification or waiver of the zoning conditions applicable to the Community, as the same were modified and

approved (the "Zoning Conditions"), such Zoning Conditions as of the date of the recording of this Declaration being reflected in the meeting summary attached hereto as Exhibit "D" and incorporated herein by this reference. Each Owner shall be responsible for abiding by and complying with all Zoning Conditions applicable to such Owner's Lot.

6.3 Architectural Guidelines. 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, amend and modify, 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. 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.

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 the Association and their respective directors, officers, members, representatives, agents or employees 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 applicable building codes, zoning conditions, permitting requirements or for any other violation of governmental laws, ordinances and regulations governing construction in the Community. Neither Declarant, the Association, nor their respective officers, directors, members, employees and agents shall 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 any 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 the 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 whatsoever 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, hardship, aesthetic considerations or environmental considerations. No variance issued 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 Declarant, an Owner shall, at such Owner's 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, 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 Lot as a specific assessment. In such event, neither Declarant, the Association nor their respective officers, directors, members, employees 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, if any, may be excluded by the Declarant from the Community, subject to any applicable notice and hearing procedures contained herein or in the Bylaws. In the event of noncompliance with this Article, the Association or Declarant, respectively, may also record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, Declarant or the Association, acting through its Board, shall 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 that can be annexed to the Community as provided herein; and (b) each Lot 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 Fulton 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 of or voluntary surrender of all or a portion 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 the 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 consent of Declarant.

7.2 Residential Use. Each Lot shall be used for residential purposes exclusively. Leasing of a Lot for residential occupancy pursuant to Article 8 hereof shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing at the Lot 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 any rules and regulations of the Association; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (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; (i) does not involve door-to-door solicitation within the Community; and (j) does not involve regular visitation of the Lot by employees who do not reside at the Lot, clients, customers, suppliers or other business invitees, 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 the foregoing, nothing in this Section 7.2 shall be construed as prohibiting the Declarant or any builder approved by Declarant from maintaining model homes, speculative housing, sales trailers or construction trailers on Lots 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; provided, however, the following signs may be erected or displayed on any Lot without approval: (a) for-sale signs, for rent signs, and security signs not larger than 18-inches by 18-inches which are consistent with the Community-Wide Standard; (b) signs required by legal proceedings; (c) one (1) "life event" sign commemorating a birth, graduation, or similar life event for a period not to exceed seven (7) days from the date of the event; and (d) such other signs as may be permitted under the Architectural Guidelines. Notwithstanding the foregoing, the Board, on behalf of the Association, the Declarant and an Approved Builder with the consent of Declarant shall have the right to erect and display reasonable and appropriate signs including, without limitation, marketing and sales signs relating to the development, construction and sales of residential dwellings located on Lots in the Community. The Board of Directors shall also 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 of Directors may impose a fine, in an amount determined thereby, 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 Lot. Notwithstanding anything to the contrary herein, 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 Lot 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 spaces serving the Lot" shall refer to the number of garage parking spaces and if, and only if, the Owners and Occupants of a Lot have more vehicles than the number of garage parking spaces, those excess vehicles which are an Owner's or Occupant's primary means of transportation on a regular basis may be parked on the driveway located on such Lot; provided, however, no vehicle parked on a driveway shall encroach onto any portion of the sidewalk, street or landscaped or grassy area. All parking shall be further subject to such reasonable rules and regulations as the Board may adopt from time to time.

(b) Garages. 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. Garages shall not be converted to additional living space unless the same has been approved in accordance with Article 6 hereof.

(c) Guest Parking Spaces. Any and all designated parking spaces located on the Common Property ("Guest Parking Spaces") shall be for temporary parking by guests, invitees and licensees of the Owners and Occupants of Lots. Owners and Occupants of Lots shall not be entitled to park vehicles on or otherwise utilize the Guest Parking Spaces, except with the prior written approval of the Board of Directors for use on a temporary basis. All parking in Guest Parking Spaces shall be subject to the provisions of this Section and such additional rules and regulations as the Board of Directors may adopt from time to time.

(d) 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 of more 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 Fulton County. No towed vehicle, boat, personal watercraft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go cart, golf cart, commercial vehicle, camper, bus or mobile home shall be regularly stored in the Community or temporarily kept in the Community, except if kept in an enclosed garage or other area designated by the Board, if any, for periods longer than twenty-four (24) hours (the temporary removal of such vehicle from the Community shall not be sufficient to establish compliance with the twenty-four (24) consecutive hour provision provided for herein). 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 in the garage 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 as may be reasonably necessary to provide service to or delivery within the Community or as otherwise permitted by the Board of Directors.

(e) Commercial Vehicles. The term "commercial vehicles" as used in this paragraph, shall include, without limitation, any vehicle which bears any indicia of commercial use, including, but not limited to, writing, logos, 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 to or make a delivery within the Community.

(f) Remedies of the 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.

(g) Declarant and Builder Exemption. Notwithstanding the foregoing, the Declarant, Approved Builder and any other builder approved by Declarant and their respective agents, contractors, 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 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 Lot, with the exception of dogs, cats or other usual and common household pets in a reasonable number as determined by the Board from time to time in its sole discretion. 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 Lot unless approved in accordance with the provisions of Article 6 hereof. Dogs shall at all times when outside of a dwelling located on a Lot 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 Lot; all of the foregoing as determined by the Association in its sole discretion.

All pets shall be registered, licensed and inoculated if and as required by law. Animal control authorities shall be permitted to enter the Community to patrol and remove unlicensed pets. 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 designed to minimize damage and disturbance to other Owners and Occupants, including without limitation, regulations requiring damage deposits, waste removal, leash controls and noise controls. 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 the 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 Lot of such Owner.

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 Lot. 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 Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept 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 horn, exterior speaker, whistle, siren, bell, amplifier or other sound device, except such devices as may be 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 of a home shall be permitted, located, used, placed, installed or maintained upon any Lot, 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, Approved Builder and other builders approved by Declarant and their respective representatives, agents, contractors and subcontractors may engage in construction activities on one or more Lots in the Community and each Owner and Occupant 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 or transmitting audio or video signals shall be placed, allowed or maintained upon any portion of the Community, including any Lot, unless approved in accordance with the provisions of Article 6 hereof; provided, however, no such approval shall be necessary to install the following on a residential dwelling located on a Lot: (a) antennae designed to receive direct broadcast satellite services, including direct-to-home satellite services or antennae designed to receive or transmit fixed wireless signals via satellite, that are one meter or less in diameter; (b) antennae designed to receive video programming services via multi-point distribution services or antennae 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) antennae 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 Lot 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 Tree Removal. No trees that are more than four (4) inches in diameter at a point twelve (12) inches above the ground and no ornamental or flowering trees, including, but not limited to, dogwood trees, cottonwood trees, cherry trees or apple trees, regardless of diameter shall be removed without prior written approval under Article 6 hereof or otherwise in accordance with applicable Architectural Guidelines. The Association and Owners shall also comply with all zoning conditions and local ordinances applicable to tree removal. In the event of a conflict between the provisions of this Section and any zoning condition or local ordinance, the more restrictive provision shall govern. This provision shall not apply to the removal of trees by the Association, Declarant or the Approved Builder.

7.10 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 Lot or Lots flows across another Lot, provisions shall be made by the Owner of such downstream Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot 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 Fulton County, Georgia land records. The elevation of a Lot shall not be changed so as to materially affect the surface elevation or grade of surrounding Lots.

7.11 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or other planting or thing shall be placed or permitted to remain where, in the opinion of the Board of Directors, it would create an unsafe condition.

7.12 Garbage Cans, Woodpiles, Etc. All garbage cans, recycling bins, woodpiles, air conditioning units, heat pumps, filters and related equipment, and other similar items shall be

located or screened so as to be concealed from the view of streets and neighboring property. All rubbish, trash, garbage, recycling materials and yard waste shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris, yard waste or other waste matter of any kind may not be burned within the Community. Trash, recycling and yard waste 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. All Community trash, recycling and yard waste shall be subject to such further rules and regulations as the Board may adopt, including without limitation, the designation of a particular trash pick-up day throughout all or a portion of the Community.

7.13 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with prior written approval in accordance with the provisions of Article 6 hereof. Declarant, however, hereby expressly reserves the right to subdivide and/or revise and re-record the subdivision plat of any Lot(s) with the consent of the Owner of the affected Lot(s) and to approve the revision and re-recording of any plat of any Lot(s) owned by any builder or developer, including, but not limited to, changing any Lot to Common Property or creating a public or private street over any Lot or property that was formerly a Lot, without the consent of any Person, other than the Owner(s) of such Lot(s).

7.14 Fences. The installation and construction of fences in the Community shall be governed by the restrictions set forth herein.

(a) Detached Lots and Townhome Lots. No fence or fencing type barrier of any kind, including, without limitation, an invisible fence, shall be placed, erected, allowed or maintained upon any Lot unless approved in accordance with the provisions of Article 6 hereof and in compliance with the applicable Zoning Conditions, if any. No fence may be installed that obstructs, alters or impedes the flow of storm water drainage in the Community. Any fence erected or installed on a Detached Lot or a Townhome Lot shall contain at least one gate which provides access to the area enclosed by such fence in order to allow access by the Association and its agents to maintain such area as provided in Article 5 hereof.

(b) Common Property. The Declarant, Approved Builder, 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.

7.15 Utility Lines. No overhead utility lines, including lines for cable television, shall be installed within the Community.

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

7.17 Lighting. Exterior lighting on any Lot visible from the street shall not be permitted, except for: (a) approved lighting as originally installed on a Lot; (b) street lights in conformity with an established street lighting program for the Community; (c) seasonal decorative lights for a reasonable period of time during the holiday season as may be determined by the Board in its sole discretion; (d) front house illumination of model homes; or (e) other lighting approved under

and pursuant to Article 6 hereof or as may be otherwise permitted under applicable Architectural Guidelines. Religious or holiday symbols and decorations may be displayed on a Lot of the kinds normally displayed in single-family residential neighborhoods; provided, however, the Association may adopt reasonable time, place and manner restrictions with respect to said symbols and decorations visible from outside structures on the Lot, including, without limitation, limitations on appearance, style, size, and number.

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

7.19 Flags. Except for flags which may be installed by the Declarant, no flags may be displayed on any Lot without prior written approval in accordance with the provisions of Article 6 hereof or as may be otherwise permitted in the Architectural Guidelines established thereunder; provided, however no such 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 Lot in accordance with the provisions of the U.S. Flag Code (36 US Code 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 Lot in the Community in contravention of the Freedom to Display the American Flag Act of 2005.

7.20 Conservation Equipment. No solar energy collector panels or attendant hardware or other conservation equipment shall be constructed or installed on a Lot unless as an integral and harmonious part of the architectural design of a structure or otherwise screened from view and approved in accordance with the provisions of Article 6 hereof or otherwise permitted in the Architectural Guidelines.

7.21 Swimming Pools. No swimming pool, hot tub or water spa shall be constructed, erected or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof and in no event shall any above-ground swimming pool be permitted; provided, however, portable or inflatable wading pools designed for use by small children shall be permitted so long as the same are properly maintained and stored out of view from neighboring property or the public streets when not in use.

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

7.23 Entry Features. Owners shall not alter, remove or add improvements to any entry features or streetscapes constructed on any Lot 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 Article 6 hereof or applicable Architectural Guidelines.

7.24 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 Lot 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.

7.25 Storm and Screen Doors and Windows; Pet Doors. Owners shall not add storm and screen doors and storm windows on any Lot without prior approval in accordance with the provisions of Article 6 hereof. No animal door and/or pet door of any type shall be installed on any Lot unless approved in accordance with the provisions of Article 6 hereof.

7.26 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.

7.27 Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure may be used as a residence, either temporarily or permanently, unless approved in writing in accordance with Article 6 hereof and in compliance with applicable Zoning Conditions. However, this Section shall not be construed to prevent the Declarant, Approved Builder and any other builder approved by Declarant, Declarant's representatives and agents and those engaged in development, construction, marketing, property management or sales in the Community from using sheds, trailers or other temporary structures for any of the foregoing purposes. In addition, nothing in this Section shall be construed to prevent the Declarant, Approved Builder or any other builder approved by Declarant from developing, constructing, marketing, or maintaining model homes, speculative housing, sales offices or construction trailers within the Community.

7.28 Decks, Patios and Porches. No laundry, garments, towels or objects other than potted plants, grills, umbrellas and patio furniture, shall be placed on a courtyard or Exclusive Land Use Easement Area appurtenant thereto, deck, patio, porch or balcony, except as may be authorized by the Board of Directors. 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. 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 courtyard or Exclusive Land Use Easement Area appurtenant thereto, deck, patio, porch or balcony located on or appurtenant to a Lot. No courtyard or Exclusive Land Use Easement Area appurtenant thereto, deck, patio, balcony or porch shall be enclosed without prior approval in accordance with the provisions of Article 6 of the Declaration. No awnings, tents or canopies shall be placed on or affixed to a Lot unless required by applicable Zoning Conditions and approved in accordance with the provisions of Article 6 of the Declaration.

7.29 Exterior Drapery. No exterior drapery shall be permitted unless approved in accordance with Article 6 hereof.

7.30 Exterior Speakers No exterior speakers or other sound devices, except security devices used exclusively for security purposes, shall be permitted on any Lot.

7.31 Traffic Regulations. All vehicular traffic on any private streets in the Community shall be subject to the provisions of the state and local laws concerning 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 reasonable safety measures and speed limits. 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 violations thereof. 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 or alleys 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.

7.32 Storm Water Detention/Retention Ponds, Creeks and Streams. Except as herein provided, all storm water retention/detention ponds, creeks and streams within the Community shall be used for aesthetic amenities and storm water drainage only; no other use thereof, including, without limitation, swimming, ice skating, playing, or use of personal flotation devices, and other recreation, shall be permitted, without the written consent of the Board of Directors. The Association, Declarant and/or Approved Builder shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the any storm water detention/retention pond, creek or stream within the Community. No Owner shall have any right to place rocks, stones, trash, garbage, sewage, waste water, rubbish, debris, ashes or other refuse in any body of water located within the Community. Applicable governmental agencies, the Declarant and the Association, shall have the sole right to control the water level of all bodies of water located within the Community and to control the growth and eradication of plants, fowls, reptiles, animals, fish and fungi in and around any storm water detention/retention pond, creek and stream within the Community. Owners shall have no riparian or littoral rights with respect to the waters in any creek or stream within the Community and shall not be permitted to withdraw water from any creek or stream as may exist in the Community without the prior written consent of the Board of Directors.

7.33 Heating of Townhome Lots in Colder Months. In order to prevent water pipes from breaking during colder months of the year resulting in damage to residential dwellings located on Townhome Lots, increased Townhome Lot common expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within all residential dwellings located on Townhome Lots 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 Townhome Lots of such equipment failure and of the time needed in order to repair the equipment. Owners shall take reasonable steps to keep the residential dwelling located on the Townhome Lot heated sufficiently to prevent water pipes from breaking.

7.34 Measures Related to Insurance Coverage.

(a) The Board of Directors shall have the authority to require all or any Townhome Lot Owner(s) to do any act or perform any work involving portions of the Community that are the maintenance responsibility of the Townhome Lot 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 all Owners 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) make improvements to the Owner's Townhome Lot; and (v) take such other measures as the Board may reasonably require; provided, however, any work requested by the Association shall not exceed the amount of the annual general assessment.

(b) In addition to, and not in limitation of, any other rights the Association may have, if any Townhome Lot Owner does not comply with any reasonable requirement made by the Board pursuant to subsection (a) above, the Association, upon fifteen (15) days' written notice (during which period the Townhome Lot Owner may perform the required act or work without further liability), may perform such required act or work at the Townhome Lot Owner's sole cost and expense. Such cost shall be a specific assessment and a lien against the Lot 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 subsection (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 Townhome Lot, except that access may be had at any time without notice in an emergency situation.

7.35 Yards. Owners shall not add, remove or modify trees, shrubs, bushes, plants or other vegetation on the exterior portions of the Lots without prior approval in accordance with

the provisions of Article 6 hereof except as may otherwise be expressly authorized by the Architectural Guidelines or this Declaration.

Article 8  
Restriction on Leasing

8.1 General. Lots may be leased for residential purposes in accordance with this Article. Leasing authorized under this Article shall be governed by the following provisions:

(a) Notice. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board of Directors with the following information: (i) a copy of the fully executed lease agreement; (ii) the name of the lessee and all other people occupying the Lot; (iii) the electronic mail address and telephone number of the lessee; (iv) the Owner's address and telephone number other than at the Lot; and (v) other such information as the Board may reasonably require. All Owners and Occupants shall notify the Association of any change in name, address, electronic mail address or telephone number.

(b) General. Lots may be leased only in their entirety; rooms, basements or fractions or portions of a Lot may not be leased without the prior written approval of the Board of Directors. All leases shall be in writing. There shall be no subleasing of Lots or assignment of leases unless approved in writing by the Board of Directors. All leases must be for an initial term of at least one (1) year, except with written approval by the Board of Directors, which shall not be unreasonably withheld in cases of undue hardship. The Owner must provide the lessee with copies of the Declaration, Bylaws, and the rules and regulations and Architectural Guidelines of the Association and the lease shall provide that the Owner has made available to the lessee copies of the Declaration, Bylaws, and the Association's rules and regulations and Architectural Guidelines.

(c) Compliance; Liability for Assessments. If a Lot is leased or occupied in violation of this Article, then the Board of Directors shall be authorized, in addition to all other available remedies, to suspend all voting rights and the right to use and enjoy the Common Property of the Owner and any unauthorized tenants(s) or Occupant(s). Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) Compliance with Declaration, Bylaws and Rules and Regulations and Architectural Guidelines. Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations and Architectural Guidelines adopted pursuant thereto. Lessee shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance. The Owner agrees to cause all Occupants of the Owner's Lot to comply with the Declaration, Bylaws, and the rules and regulations and Architectural Guidelines adopted pursuant thereto and is responsible for all violations caused by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned



for any violation of the Declaration, Bylaws and rules and regulations and Architectural Guidelines adopted pursuant thereto.

In the event that the lessee or a person living with the lessee violates the Declaration, Bylaws, or a rule or regulation or Architectural Guideline 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 accordance with the provisions contained herein. If the fine is not paid by the lessee within the time period set by the Board of Directors, 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 Lot.

Any violation of the Declaration, Bylaws or rules and regulations and Architectural Guidelines adopted pursuant thereto by the lessee, any Occupant, or any guest of the 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.

(ii) Liability for Assessments; Assignment of Rent. If an Owner who is leasing such Owner's Lot fails to pay any general, special or specific assessment or any other charge owed to the Association 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 of Directors, lessee shall pay to the Association all unpaid general, special and specific 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 of Director'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 of Director's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the 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 such Owner would otherwise be responsible.

(iii) Right to Common Property. 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 Property, including, without limitation, the right to use and enjoy the Community recreation facilities.

8.2 Transient Rentals. Notwithstanding anything herein to the contrary, under no circumstances shall a Lot 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 other similar rental services.

8.3 Exemption. The provisions of this Article shall not apply to any transaction entered into by Declarant, Approved Builder or an affiliate of either.

Article 9  
Insurance and Casualty Losses

9.1 Insurance on Common Property. The Board of Directors shall have the authority to and shall obtain casualty 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 Townhome Lots as provided in Section 9.5 hereof; provided, however, the Association's insurance shall not include an Owner's or Occupant's personal property (which shall be the sole responsibility of the Owner or Occupant, as applicable) or any portion of a Detached Lot. Insurance obtained and maintained by the Association shall provide, at a minimum, fire and extended coverage, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board of Directors shall make available for review by Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs and each Owner shall have the right to obtain additional coverage at its own expense.

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/100 Dollars (\$1,000,000.00). Policies may contain a reasonable deductible as determined by the Board of Directors.

In addition to the other insurance coverage required by this Section, the Board of Directors 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. The Association shall also obtain construction code endorsements, steam boiler coverage and flood insurance, if and to the extent necessary to satisfy the applicable requirements of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

9.2 Insurance Obtained by Lot Owners. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of a Lot, except that, the Association shall obtain insurance on Townhome Lots as provided in Section 9.5 hereof. Each Owner of a Lot shall carry: (a) insurance covering an Owner's or Occupant's personal property; and (b) a liability policy covering damage or injury occurring on a Lot. Additionally, (y) each Owner of a Detached Lot shall carry all-risk casualty insurance on the Detached Lot and all structures, dwellings and

improvements located or constructed thereon, which shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy and, if reasonably available, shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard, and (z) to the extent not obtained and maintained by the Association pursuant to Section 9.5 below, each Owner of a Townhome Lot shall carry all-risk casualty insurance on the Townhome Lot and all structures, dwellings and improvements located or constructed thereon, which shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy and, if reasonably available, shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policies required hereunder shall be in effect at all times.

9.3 Damage and Destruction -- Insured by Association. Immediately after damage or destruction by fire or other casualty to any portion of any structure or improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent 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 necessitated by changes in applicable building codes. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, a proposal not to repair or reconstruct such property is approved by at least seventy-five percent (75%) of the Total Association Vote and the Declarant. 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. 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 of the Association, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, 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 by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall thereafter be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration.

9.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any structure or improvement located on a Lot shall be repaired or reconstructed by the Owner thereof in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 6

of this Declaration. Said repair or reconstruction shall be completed within seventy-five (75) days after such damage or destruction occurred or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable period of time thereafter. Alternatively, the Owner of the Lot may elect to demolish all improvements on the Lot and remove all debris and ruins therefrom within seventy-five (75) days after such damage or destruction occurred and thereafter maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard and this Declaration. The Owner shall pay all costs which are not covered by insurance proceeds.

9.5 Insurance on Townhome Lots. Unless otherwise determined by resolution of the Board and at least thirty (30) days' prior written notice to each Owner of a Townhome Lot, the Association shall obtain blanket casualty insurance for all Townhome Lots; provided however, the Association's insurance shall not be required to include the Townhome Lot Owner's personal property and the Association's insurance coverage may further exclude from coverage: improvements and betterments made by the individual Owners; windows; doors; the HVAC system serving the Lot; sheetrock; walls, ceiling and floor coverings; plumbing and electrical lines and fixtures; cabinetry and fixtures; and appliances, except to the extent the Association is obligated to maintain the same. Any items not covered by the Association's insurance shall be the sole responsibility of the Townhome Lot Owner. The Association's insurance policy shall cover loss or damage by fire or other hazards to Townhome Lots, 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 of the Townhome Lots in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all risk" coverage for the Townhome Lots in like amounts. The costs of insuring the Townhome Lots shall be assessed as a Townhome Lot assessment on all Townhome Lots. 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. If the loss affects more than one Townhome Lot or a Townhome Lot 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 provided that the deductible will apply to each Townhome Lot separately. If any Townhome Lot Owner fails to pay the deductible when required hereunder, the Association shall assess the cost to any such Owner as a specific assessment.

## Article 10 Easements

10.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded subdivision plat(s) 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 Superior Court of Fulton County, Georgia.

10.2 Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the

Owner's Lot in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

(a) the right of the Association to suspend the right of an Owner to use and enjoy the Common Property for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, rules and regulations or Architectural Guidelines;

(b) 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 the Owners of at least two-thirds (2/3) of the Lots 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 Lot 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 Lot or other property located within the Community);

(c) 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;

(d) the right of the Association to transfer or convey title to all or any portion of the Common Property upon the approval of the Owners of at least two-thirds (2/3) of the Lots and the consent of Declarant; provided, however, the Association shall have the right, without a vote of the members, to convey title to a portion of the Common Property to a governmental entity;

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

(f) the right of the Declarant or the Association, acting through the Board of Directors, without a vote of the members, but with the consent of the Declarant, to enter into agreements with third parties to establish certain easements, covenants and obligations to benefit and/or burden all or a portion of the Community; and

(g) all encumbrances and other matters shown by the public records affecting title to the Common Property.

### 10.3 Easements for Utilities.

(a) Association and Declarant. There is hereby reserved to Declarant and granted for the benefit of Declarant, Approved Builder, and 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, water quality vault and related facilities, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant, Approved Builder, or the Association might decide to have installed to serve the Community. Declarant, Approved Builder, the Association or their respective designees, as the case may be, may alter drainage and water flow, 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. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, Declarant, Approved Builder, or the Board shall have the right to grant such easement. The Board of Directors, without a vote of the Owners, shall have the right, power and authority to grant permits, licenses, utility easements or other easements under, through, or over the Lots and/or the Common Property as may be reasonably necessary to or desirable for the ongoing operation and maintenance of the Community.

(b) Lot Owner. There is hereby reserved to Declarant and granted for the benefit of each Lot 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 Lot and situated in, on or under any other Lot or the Common Property. Certain utility meters and facilities may be installed on the end of a building containing Townhome Lots or in a bank of meters at the end of a row of Detached Lots. Utility lines serving Lots may run across, over, under or through neighboring Lots. Easements for all such utility lines are established herein. In the event that any Owner desires access to another Lot 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 Lot(s) or the Association, as the case may be, 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 Lot 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 Lots, reasonable steps shall be taken to protect such Lots and the property of the Owners and Occupants thereof, and damage shall be repaired by the Person causing the damage at its sole expense. 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 Lots and/or the Common Property as may be reasonably necessary for the proper maintenance and/or ongoing operation of the Community.

10.4 Easement for Emergency Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, any Supplementary Declaration, Bylaws, rules and regulations of the Association and Architectural Guidelines, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association 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 Lot to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable period of time after requested by the Association, but shall not authorize entry into the residential dwelling located on a Lot without the permission of the Owner.

10.5 Easement for Association Maintenance. There is hereby reserved to Declarant and granted for the benefit of the Association a perpetual easement across the exterior portions of all Lots 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 Lots, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractor(s) at their sole cost and expense. Except in an emergency situation, entry to the residential dwelling located on a Lot shall only be during reasonable hours and after notice to the Owner.

10.6 Easement for Lot Maintenance. There is hereby reserved to Declarant and granted for the benefit of each Lot reciprocal appurtenant easements between adjacent Lots and an easement over adjacent Common Property for the purpose of maintaining or repairing the improvements located on each Lot which easement shall extend to a distance of five (5) feet as measured from any point on the common boundary between the Lots. The easement shall be used only for such period of time as is reasonably necessary in order to complete the maintenance or repair. Any Owner of a Lot to which access is needed under this Section shall not unreasonably withhold, impede, condition or delay such access. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Lot over which this easement is exercised which arises out of such maintenance or repair work.

10.7 Easement for Entry Features and Streetscapes. There is hereby reserved to Declarant and granted for the benefit of the Declarant, Approved Builder, and the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features, streetscapes, and perimeter fencing or Community landscaping for the Community, over and upon any portion of a Lot containing such entry features, streetscapes, or perimeter fencing or Community landscaping as may be more fully described on the recorded subdivision plat(s) for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation in such areas and the right to grade the land under and around the same.

#### 10.8 Easement for Drainage.

(a) Association, Declarant and Approved Builder. There is hereby reserved to Declarant and granted for the benefit of Declarant, Approved Builder, and 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, water quality treatment systems, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. In addition, there is hereby reserved to Declarant and granted for the benefit of the Declarant, Approved Builder, and the Association a blanket easement across all Lots for creating and maintaining satisfactory drainage in the Community; provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. It is anticipated that increased storm water run-off across downstream Lots will result from the construction of impervious surface within or adjacent to the Community. Neither the Declarant, Approved Builder, the Association nor their respective officers, directors, representative or agents or 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 surfaces water resulting from approved construction within the Community.

(b) Detached Lot Owner. There is hereby reserved to Declarant and granted to each Owner of a Detached Lot an easement upon, across, above and under the exterior portions of any adjacent Detached Lot to accommodate the drainage and discharge of storm and surface water from the benefitted Detached Lot to any catch basins, water quality treatment systems and/or other stormwater drainage facilities from time to time located on the burdened Detached Lot and for the purpose of tying into and/or otherwise connecting and using such catch basins, water quality treatment systems and/or other stormwater drainage facilities located on the burdened Detached Lot; provided, however, any and all exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavating, grading, filling and trenching) shall be subject to prior approval under Article 6 hereof. The Person for whose benefit such work is being done shall be responsible for repair of all incidental damage to any Lot or Common Property resulting from performance of any such work. Maintenance, replacement and repair of any stormwater drainage facilities and improvements installed hereunder shall be as otherwise set forth in this Declaration.

10.9 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 or revisions thereto, there is hereby reserved to Declarant and granted for the benefit of Declarant and Approved Builder an easement across the Community to maintain and carry on, upon such portion of the Community as Declarant, Approved Builder, or any other builder approved by Declarant may reasonably deem necessary, such facilities and activities as in its sole opinion may be required or convenient for Declarant's or such builder's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or for the



development, construction or benefit of any neighboring property, including, but not limited to: (a) the right to place or authorize the placement of marketing and directional signs on Lots or right-of-way 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 Lot; (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 Lots, 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 Lot, changing any Lot or portion of a Lot to Common Property, Common Property to a Lot or right-of-way or creating a public or private street over all or any portion of a Lot or other property within the Community; provided, however, the boundary lines of any Lot not owned by Declarant shall not be changed without the written consent of the Owner(s) and Mortgagee(s) of such Lot; (g) the right to construct utilities, recreational facilities 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, Approved Builder, and any other builder with the consent of Declarant may use residences, offices or other buildings owned or leased thereby as model residences and sales offices. This Section shall not be amended without the Declarant's written consent until the rights of Declarant and rights of Approved Builder have terminated as provided in Section 11.5 hereof.

10.10 Easement for Private Streets, Sidewalks and Signs. There is hereby reserved to Declarant and granted for the benefit of the Association and the Owners, a perpetual, non-exclusive right-of-way easement for vehicular and pedestrian access, ingress and egress over and across the private streets 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 Fulton County, Georgia, any reference to private streets shall then and thereafter mean a reference to the private streets 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. There is hereby reserved to Declarant and granted to the Association as Common Property, the perpetual nonexclusive right and easement upon, over and across those

utility easement areas and private streets, roads and sidewalks for the installation, maintenance, and use of such streets and roads, sidewalks, traffic directional signs, street lights, grading for proper drainage of said streets and roads, and related activities and improvements.

10.11 Easement for Encroachment and Overhang. There is hereby reserved to Declarant and granted for the benefit of each Lot a reciprocal appurtenant easement for encroachment and overhang between adjacent Lots and between a Lot and adjacent Common Property due to the original construction or the unintentional placement or settling or shifting of the improvements including, but not limited to, courtyard gates, retaining walls, downspouts and gutters, constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than three (3) 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 in the original construction of the Lots.

Certain Detached Lots in the Community are served by a courtyard area located on such Detached Lot and an Exclusive Land Use Easement Area, bounded, in part, by the dwelling structure located on the adjacent Detached Lot or by the Common Property. Nothing herein shall authorize the Owner of a Detached Lot to install landscaping improvements or other items in such Owner's courtyard area or any Exclusive Land Use Easement Area appurtenant thereto so as to encroach on the dwelling structure located on the adjacent Detached Lot or on the adjacent Common Property, including, without limitation, by attaching or affixing plants, lights or other items to the adjacent dwelling structure, without the prior consent of the Owner of such adjacent property. To the extent that such encroachment is made by or on behalf of an Owner or a predecessor thereof, including any such encroachment established in connection with the original construction and development of the Community, such Owner shall be responsible for continuing maintenance and repair of any such encroachment and shall be liable for the prompt repair of any damage to the adjacent Detached Lot or Common Property and any improvements thereon which arises out of such encroachment.

10.12 Exclusive Land Use Easement Area. There is hereby reserved to Declarant and granted for the benefit of the Detached Lots served by a courtyard area an easement of access, ingress, egress, use and enjoyment across, under, and over the Exclusive Land Use Easement Area adjacent to, serving and exclusively benefiting the Detached Lot having access to said Exclusive Land Use Easement Area from the courtyard area located on such Detached Lot, if any. Such Exclusive Land Use Easement Area may be used and enjoyed exclusively by the Owner of such benefited Detached Lot in any manner and for any purpose permitted for a courtyard by this Declaration, including such purposes as landscaping and general recreation; provided, however, each Owner shall comply with the use restrictions contained herein and rules adopted by the Board of Directors and obtain prior written approval in accordance with Article 6 hereof as applicable; provided, further, no such use of or improvements to an Exclusive Land Use Easement Area shall encroach on the adjacent dwelling. Such rights shall be appurtenant to and run with title to such benefited Detached Lot for the benefit of the Owner of said Detached Lot, but shall not be sold, mortgaged, leased or otherwise granted or conveyed separate and apart from such benefited Detached Lot.

Article 11  
General Provisions

11.1 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 Lot, if any. Declarant or the Association, acting 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; and 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, attorneys' 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.

The failure to comply with this Declaration, the Bylaws, use restrictions, the rules and regulations and the Architectural Guidelines shall be grounds for an action to recover sums due for damages, injunctive relief or both, and shall include, without limitation, reasonable attorneys' fees actually incurred, maintainable by the Association, Declarant or an aggrieved Owner. The failure by the 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 or the Association shall have the right to record in the appropriate 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 Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

11.2 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, 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.

11.3 Self-Help. In addition to any other remedies provided for herein, the Association, acting through the Board, Declarant or their respective duly authorized agents shall have the power to enter upon any Lot 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 the Architectural Guidelines. Unless an emergency

situation exists, the violating Owner shall be given ten (10) days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required herein or by law. All costs of self-help, including, without limitation, reasonable attorneys' fees actually incurred, shall be assessed against the Lot of the violating Owner as a specific assessment.

11.4 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, Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, if and to the extent that Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be: (a) automatically extended for successive periods of twenty (20) years (or the maximum period allowed by applicable law, if less), unless a written instrument signed by the then Owners of at least two-thirds (2/3) of the Lots has been recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

11.5 Termination of Rights of Declarant and Approved Builder. The rights of Declarant and Approved Builder 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 and Approved Builder, in the aggregate, no longer own any property in the Community and, in the case of Declarant, Declarant no longer has the right to unilaterally annex additional property to the Community as provided herein and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant or Approved Builder, as the case may be, in the real estate records of the county where the Community is located of a written instrument terminating all of Declarant's or Approved Builder's, as the case may be, rights hereunder.

11.6 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 Lots 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 Lots 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 Lots subject to this Declaration; provided, however, such amendment shall not materially adversely affect the substantive rights of any Owner to use such Owner's Lot without the consent of the affected Owner.

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 such Owner's Lot 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 elect to be governed by and thereafter comply with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.*; (ii) to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (iii) to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iv) 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 Lots subject to this Declaration; or (v) 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 Lots subject to this Declaration; provided, however, such amendment shall not materially adversely affect the substantive rights of any Owner to use such Owner's Lot without the consent of the affected Owner.

(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 Lots and Declarant. Notwithstanding the foregoing, any provisions of this Declaration applicable exclusively to Townhome Lots may be amended by the affirmative vote or written consent or any combination thereof of Owners of at least two-thirds (2/3) of the Townhome Lots and Declarant.

Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein. The consent of 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.

11.7 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.

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

11.9 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.

11.10 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.

11.11 Preparer. This Declaration was prepared by Michael E. Leavey, Dorough & Dorough, LLC, Attorneys at Law, 160 Clairemont Avenue, Suite 650, Decatur, Georgia 30030.

11.12 Notices. Except as otherwise specifically provided in such document(s), as the case may be, notices provided for in this Declaration or the Articles or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Lot and to the Declarant and 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, electronic mail 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 by electronic transmission 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.

11.13 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.

11.14 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, APPROVED BUILDER, 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, APPROVED BUILDER, 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 MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

11.15 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, attorneys' 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.

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

11.17 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.

11.18 Variances. Notwithstanding anything to the contrary contained herein, the Declarant and the Board of Directors, with the consent of the Declarant, 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.

11.19 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 of the Declarant. This Section shall not apply to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (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.

11.20 Disclosures. Every Owner, by acceptance of a deed to a Lot, 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 members of the general public may enter the Community through the use of certain private roads and sidewalks constructed in the Community that connect the Community to adjacent properties and rights-of-way. Declarant and its affiliates do not guarantee or represent that such connectivity will not increase noise, traffic flow or congestion on the streets, sidewalks and trails within the Community or threaten the security or safety of Persons in the Community. Declarant and the Association shall have no obligation to monitor or control vehicular or pedestrian access into or through the Community from adjacent properties;

(c) that Declarant shall not be responsible for responding to or taking any affirmative action on behalf of the Association or an individual member of the Association to mitigate, alleviate, remedy or cure any off-site conditions that may directly impact the Community or any portion thereof, and such inaction by Declarant shall not constitute a breach of fiduciary duty by the directors and officers of the Association that are appointed by Declarant, pursuant to the Bylaws of the Association.

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

(e) 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;

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

(g) 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 Lot; and

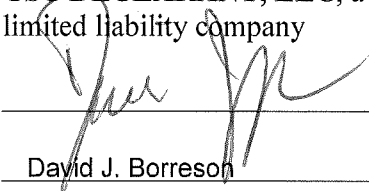
(h) that Declarant and/or Approved Builder will be constructing portions of the Community and adjacent property and may engage in other construction activities related to other portions of the development and such adjacent property. Such construction activities may, from time to time, produce certain 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, Approved Builder or their

respective representatives or agents to be deemed in violation of any provision of this Declaration.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant herein has caused this instrument to be executed under seal, this 2nd day of February, 2018.

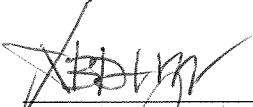
DECLARANT: **CSC DECLARANT, LLC**, a Georgia limited liability company

By:  (SEAL)

Name: David J. Borreson

Title: Manager

Signed, sealed, and delivered in the presence of:

  
WITNESS

  
NOTARY PUBLIC

Dianna J Reibman  
NOTARY PUBLIC  
Forsyth County, Georgia  
My Comm. Expires 06/30/2021

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

[AFFIX NOTARY SEAL]

CONSENT OF OWNER

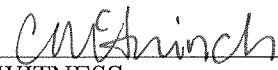
IN WITNESS WHEREOF, the undersigned owner of some or all of the tract or parcel of land described on Exhibit "A" attached to the foregoing Declaration of Protective Covenants, Conditions, Restrictions and Easements for Canton Street Commons (as amended and/or supplemented from time to time, the "Declaration"), does hereby execute this consent under seal and declare and consent, on behalf of such owner and such owner's heirs, successors, legal representatives, successors-in-title and assigns, that from and after the date hereof the property of owner described on Exhibit "A" attached hereto shall be owned, held, transferred, sold, conveyed, used, occupied, and encumbered subject to all of the terms, provisions, covenants, restrictions and easements contained in the foregoing Declaration. This 1 day of February, 2018.

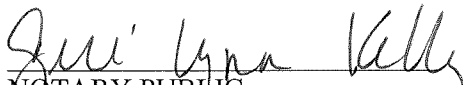
**OWNER:** GDCI GA 4, L.P., a Georgia limited partnership

By: PACIFIC LAND, LLC, a Georgia limited liability company, as its General Partner

By:  (SEAL)  
Raymond W. Cunliffe  
As its Assistant Manager

Signed, sealed, and delivered in the presence of:

  
WITNESS

  
NOTARY PUBLIC

My Commission Expires

[NOTARY SEAL]

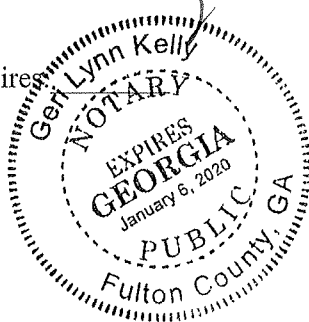


EXHIBIT "A"  
Property Description

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 1252 OF THE 21st LAND DISTRICT, 2nd SECTION, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½" REBAR SET LOCATED ON THE WESTERLY RIGHT-OF-WAY LINE OF CANTON STREET (HAVING A VARIABLE RIGHT-OF-WAY WIDTH), 522.2 FEET IN A SOUTHEASTERLY DIRECTION FROM THE SOUTH RIGHT-OF-WAY LINE OF MAYFIELD ROAD AS PER DEED BOOK 42547, PAGE 600, FULTON COUNTY, GEORGIA RECORDS; THENCE FROM SAID ½" REBAR SET, BEING THE POINT OF BEGINNING, RUNNING ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF CANTON STREET SOUTH 12 DEGREES 26 MINUTES 59 SECONDS EAST A DISTANCE OF 190.00 FEET TO A POINT; THENCE CONTINUING SOUTH 12 DEGREES 29 MINUTES 40 SECONDS EAST A DISTANCE OF 210.04 FEET TO A POINT LOCATED 1.8 FEET FROM A P.K. NAIL FOUND IN A SOUTHEASTERLY DIRECTION ALONG THE PROPERTY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO CANTON STREET HOLDINGS, LLC, THENCE DEPARTING SAID RIGHT-OF-WAY LINE RUNNING ALONG SAID PROPERTY LINE NORTH 84 DEGREES 58 MINUTES 58 SECONDS WEST A DISTANCE OF 199.62 FEET TO A 2 INCH AXLE FOUND; THENCE CONTINUING NORTH 85 DEGREES 35 MINUTES 26 SECONDS WEST A DISTANCE OF 372.12 FEET TO A ½" REBAR TO BE SET; THENCE DEPARTING SAID PROPERTY LINE RUNNING ALONG THE PROPERTY LINE OF THE "MEADOW BROOK HILLS SUBDIVISION", UNIT TWO, BLOCK "A", LOTS 6, 7, 8 & 9, NORTH 00 DEGREES 07 MINUTES 17 SECONDS EAST A DISTANCE OF 185.36 FEET TO A ½" REBAR FOUND; THENCE CONTINUING NORTH 00 DEGREES 56 MINUTES 50 SECONDS EAST A DISTANCE OF 24.68 FEET TO A 1 INCH OPEN TOP PIPE FOUND; THENCE CONTINUING SOUTH 85 DEGREES 21 MINUTES 08 SECONDS EAST A DISTANCE OF 89.90 FEET TO A 1 INCH CRIMPED TOP PIPE FOUND; THENCE CONTINUING NORTH 00 DEGREES 45 MINUTES 08 SECONDS EAST A DISTANCE OF 131.40 FEET TO A 1 INCH OPEN TOP PIPE FOUND; THENCE DEPARTING SAID SUBDIVISION PROPERTY LINE RUNNING ALONG THE PROPERTY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO HEMBERGE NORTH 88 DEGREES 28 MINUTES 48 SECONDS EAST A DISTANCE OF 391.48 FEET TO SAID ½" REBAR SET LOCATED AT THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 177,480 SQUARE FEET, BEING 4.074 ACRES, INCLUDING ALL EASEMENTS, AS SHOWN ON THAT CERTAIN BOUNDARY SURVEY FOR PEACHTREE RESIDENTIAL PROPERTIES, SUNTRUST BANK AND CHICAGO TITLE INSURANCE COMPANY PREPARED BY TAMMY A. POTTER (GRS # 2764) OF IN THE FIELD, INC. LAND SURVEYING AND CIVIL ENGINEERING SERVICES DATED MAY 8, 2007, AND LAST REVISED June 19, 2007.

EXHIBIT "B"  
Additional Property Which May Be Unilaterally  
Submitted To This Declaration by Declarant

All that tract or parcel of land lying and being in Land Lots 1251 and 1252 of the 2nd District, 2nd Section, Fulton County, Georgia.

---

EXHIBIT "C"

BYLAWS

OF

CANTON STREET COMMONS HOMEOWNERS ASSOCIATION, INC.

Prepared By:  
Michael E. Leavey  
DOROUGH & DOROUGH, LLC  
Attorneys at Law  
160 Clairemont Avenue  
Suite 650  
Decatur, Georgia 30030  
(404) 687-9977

---

BYLAWS  
OF  
CANTON STREET COMMONS HOMEOWNERS ASSOCIATION, INC.

- TABLE OF CONTENTS -

	<u>Page Number</u>
<b>ARTICLE 1 <u>NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS</u></b> .....	<b>1</b>
1.1 <u>NAME</u> .....	1
1.2 <u>MEMBERSHIP</u> .....	1
1.3 <u>DEFINITIONS</u> .....	1
<b>ARTICLE 2 <u>ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES</u></b> .....	<b>1</b>
2.1 <u>PLACE OF MEETINGS</u> .....	1
2.2 <u>ANNUAL MEETINGS</u> .....	1
2.3 <u>SPECIAL MEETINGS</u> .....	1
2.4 <u>RECORD DATE</u> .....	2
2.5 <u>NOTICE OF MEETINGS</u> .....	2
2.6 <u>WAIVER OF NOTICE</u> .....	2
2.7 <u>ADJOURNMENT OF MEETINGS</u> .....	2
2.8 <u>MEMBERSHIP LIST</u> .....	2
2.9 <u>VOTING</u> .....	3
2.10 <u>PROXIES</u> .....	3
2.11 <u>QUORUM</u> .....	3
2.12 <u>ACTION BY WRITTEN CONSENT</u> .....	3
2.13 <u>ACTION BY WRITTEN BALLOT</u> .....	4
<b>ARTICLE 3 <u>BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS</u></b> .....	<b>4</b>
3.1 <u>GOVERNING BODY; COMPOSITION</u> .....	4
3.2 <u>DIRECTORS APPOINTED BY DECLARANT</u> .....	4
3.3 <u>NUMBER OF DIRECTORS</u> .....	4
3.4 <u>NOMINATION OF DIRECTORS</u> .....	5
3.5 <u>ELECTION AND TERM OF OFFICE</u> .....	5
3.6 <u>REMOVAL OF DIRECTORS</u> .....	5
3.7 <u>VACANCIES</u> .....	6
3.8 <u>ORGANIZATION MEETINGS</u> .....	6
3.9 <u>REGULAR MEETINGS</u> .....	6
3.10 <u>SPECIAL MEETINGS</u> .....	6
3.11 <u>WAIVER OF NOTICE</u> .....	6
3.12 <u>QUORUM OF BOARD OF DIRECTORS</u> .....	6
3.13 <u>COMPENSATION</u> .....	6
3.14 <u>OPEN MEETINGS</u> .....	7
3.15 <u>EXECUTIVE SESSION</u> .....	7
3.16 <u>ACTION WITHOUT A FORMAL MEETING</u> .....	7
3.17 <u>TELEPHONIC PARTICIPATION</u> .....	7
3.18 <u>POWERS</u> .....	7
3.19 <u>MANAGEMENT AGENT</u> .....	8
3.20 <u>BORROWING</u> .....	8
3.21 <u>FINING PROCEDURE</u> .....	8



**ARTICLE 4 OFFICERS.....9**

4.1 OFFICERS.....9

4.2 ELECTION, TERM OF OFFICE, AND VACANCIES.....9

4.3 ADDITIONAL OFFICERS AND AGENTS .....9

4.4 SALARIES .....10

4.5 REMOVAL.....10

4.6 PRESIDENT.....10

4.7 VICE PRESIDENT.....10

4.8 SECRETARY .....10

4.9 TREASURER .....10

4.10 RESIGNATION.....10

**ARTICLE 5 COMMITTEES .....11**

**ARTICLE 6 MISCELLANEOUS .....11**

6.1 FISCAL YEAR.....11

6.2 PARLIAMENTARY RULES .....11

6.3 CONFLICTS .....11

6.4 ELECTRONIC RECORDS, SIGNATURES AND DOCUMENTS .....11

6.5 AMENDMENT.....11

BYLAWS  
OF  
CANTON STREET COMMONS HOMEOWNERS ASSOCIATION, INC.

Article 1  
Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Canton Street Commons Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Canton Street Commons (such Declaration, as amended, supplemented, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit, or the meanings given in the Georgia Nonprofit Corporation Code (O.C.G.A. Section 14-3-101, *et seq.*) (the "Nonprofit Code"). Statutory references shall be construed as meaning the referenced statute or portion thereof as the same may exist from time to time.

Article 2  
Association: Meetings, Quorum, Voting, Proxies

2.1 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, either in the Community or as convenient thereto as possible and practical.

2.2 Annual Meetings. There shall be an annual meeting of the members at such date, place and time as the Board of Directors shall determine to receive the reports of the outgoing Board of Directors, to install directors for the ensuing year and to transact such other business as may come before the meeting.

2.3 Special Meetings. The President or the Board of Directors may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association upon the delivery of a petition signed and dated by members entitled to cast at least twenty-five percent (25%) of the Total Association Vote and describing the purpose or purposes for which it is to be held. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose(s) thereof. No business shall be transacted at a special meeting, except those matters that are within the purpose or purposes described in the notice.

2.4 Record Date. The Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

2.5 Notice of Meetings. It shall be the duty of the Secretary or such other agent as the Association may designate to mail or to cause to be delivered, in a fair and reasonable manner, to each member (as shown in the records of the Association as of the record date) a written notice of each annual or special meeting of the Association stating the date, time and place where it is to be held and, if and to the extent required by the Nonprofit Code or other applicable law (the "Governing Law"), the purpose(s) thereof. Such notice shall be delivered personally, sent by United States mail, postage prepaid, statutory overnight delivery, or sent by electronic transmission in accordance with the Nonprofit Code to all members of record at the address shown in the Association's current records. If an Owner wishes notice to be given at an address other than the Lot, the Owner shall designate by notice in writing to the Secretary such other address. Notices shall be mailed or delivered not less than ten (10) days (or if notice is mailed by other than first-class or registered mail, thirty (30) days) nor more than sixty (60) days in advance of any annual, regularly scheduled or special meeting. If any meeting of the members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If, however, a new record date is or must be fixed under the Governing Law, notice of the adjourned meeting shall be given to persons who are members of record as of the new record date.

2.6 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing or by electronic transmission signed by the member entitled to notice and delivered to the Association for inclusion in the minutes for filing with the Association's records, 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 lack of notice or defective notice, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

2.7 Adjournment of Meetings. If any meeting 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. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.8 Membership List. After the record date for any meeting is established by the Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection by any member or a member's agent or attorney: (1) on a reasonably

accessible electronic network, provided that the information required to gain access to such list is included with the notice of the meeting or upon request; or (2) during ordinary business hours at the Association's principal office or at such other reasonable place as may be specified in the notice in the city where the meeting will be held. In the event that the Association makes the list available on an electronic network, the Association may take reasonable steps to ensure that such information is available only to members of the Association. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

2.9 Voting. The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration, and such voting rights are specifically incorporated herein.

2.10 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxy appointment forms shall be in writing, signed either personally or by an electronic transmission, dated, and filed with the Secretary before the appointed time of each meeting. An electronic transmission must contain or be accompanied by information acceptable to the Board from which it can be determined that the member, the member's agent, or the member's attorney-in-fact authorized the electronic transmission. Proxies may be delivered to the Board of Directors by personal delivery, U.S. mail or electronic transmission to the Secretary or other officer or agent authorized to tabulate votes. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of notice by the Secretary of the death or judicially declared incompetence of a member; (b) receipt by the Secretary or other officer or agent authorized to tabulate votes of written revocation signed by the member; (c) receipt by the Secretary or other officer or agent authorized to tabulate votes of a subsequent appointment form signed by the member; (d) attendance by the member and voting in person at any meeting; or (e) the expiration of eleven (11) months from the date of the proxy appointment form.

2.11 Quorum. The presence, in person or by proxy, of members entitled to cast at least twenty-five percent (25%) of the votes entitled to be cast at the meeting shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

2.12 Action By Written Consent. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed, either personally or by an electronic transmission, 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 a consent. Such action shall be approved when the Secretary receives a sufficient number of such consents dated within seventy (70) days of the record date for such action. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives written notice of the approval to all members who did not sign a consent. Each consent, in writing or by electronic transmission, shall be included in the minutes of meetings of members filed in the permanent records of the Association. No consent in writing or by electronic transmission shall be valid unless: (1) the consenting member has been furnished the same material that, pursuant to the Nonprofit 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.

2.13 Action By Written Ballot. Any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by ballot in writing or by electronic transmission as provided herein. The Association shall deliver a ballot in writing or by electronic transmission to each member entitled to vote on the matter. The ballot in writing or by electronic transmission shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by ballot in writing or electronic transmission shall indicate the number of responses needed to meet the quorum requirements; 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 ballot in writing or by electronic transmission received by the Association may not be revoked. Approval by ballot in writing or by electronic transmission of an action shall only 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. The results of each action by ballot in writing or by electronic transmission 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.

### Article 3

#### Board of Directors: Number, Powers, Meetings

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Lot.

3.2 Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the date on which all of the Lots planned by Declarant to be a part of the Community shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (b) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Community.

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of one (1) to three (3) members as determined by Declarant in writing

from time to time. Thereafter, the Board shall consist of three (3) directors, who shall be elected as provided in Section 3.5 below.

3.4 Nomination of Directors. Elected directors may be nominated from the floor, if a meeting is held for the election of directors and may also be nominated by a nominating committee, if established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 or Section 2.13 in lieu of a meeting) and the members shall elect three (3) directors, as follows: one (1) director shall be elected by Owners of the Detached Lots; one (1) director shall be elected by the Owners of the Townhome Lots; and one (1) director shall be elected at-large by all of the Owners in the Community; it being the intent of this provision to have at least one (1) member on the Board to represent the concerns and interests of the Owners of the Detached Lots and Townhome Lots, respectively, in the Community. Notwithstanding the foregoing, in the event that the Detached Lot Owners or Townhome Lot Owners are unable to elect a director, such director shall be elected at-large by all of the Owners in the Community.

It is intended that the elected directors serve staggered terms. Accordingly, the initial term of two (2) directors shall be fixed at two (2) years and the initial term of one (1) director shall be fixed at one (1) year. Thereafter, all successors shall be elected to a term of two (2) years. At annual meetings thereafter (or pursuant to Section 2.12 or Section 2.13 in lieu of a meeting), directors shall be elected as set forth above, as necessary to fill vacant seats on the Board and to preserve the scheme of staggered terms with one more or one less director being elected each year than in the previous year. All eligible members of the Association may vote on the election of directors as provided herein, and the candidates receiving the most votes shall be elected. Notwithstanding anything herein to the contrary, the members of the Board of Directors shall continue in office until their respective successors shall have been elected and take office.

3.6 Removal of Directors. At any annual, regular or special meeting of the Association, any one (1) or more of the members of the Board of Directors elected by the members may be removed, with or without cause, as follows: (a) by a majority of the Total Association Vote for a director elected at-large by all of the Owners in the Community; (b) by a majority of the Owners of Detached Lots for a director elected by the Owners of Detached Lots; and (c) by a majority of the Owners of Townhome Lots for a director elected by the Owners of Townhome Lots, and a successor may then and there be elected to fill the vacancy thus created. The notice of the meeting shall state that the purpose or one of the purposes of the meeting is removal of a director. A director whose removal by the members has been proposed shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors. This Section shall not apply to directors appointed by the Declarant.

3.7 Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors. Each Person so selected shall serve the unexpired portion of the term.

3.8 Organization Meetings. The first meeting of a newly elected Board of Directors shall be held within ten (10) days after the election at such time and place as the directors may conveniently assemble.

3.9 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board, provided that, after the right of Declarant to appoint the directors terminates, at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.10 Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the date, time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery (including commercial delivery service) to such director's home or office; (b) written notice by first class mail, postage prepaid; (c) by telephone communication (including facsimile), either directly to the director or to the director's home or office; or (d) issued electronically in accordance with the Nonprofit Code, if the director has consented in writing to such method of delivery and has provided the Board with an address regarding the same. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited with the U.S. Postal Service at least four (4) days before the date of the meeting. Notices given by personal delivery, electronic transmission or telephone shall be given at least two (2) days before the day of the meeting.

3.11 Waiver of Notice. The business transacted at 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, a consent to holding the meeting, or an approval of the minutes either in writing or by electronic transmission which is included in the minutes or filed with the official records of the Association. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors.

3.13 Compensation. No director shall receive any compensation from the Association for acting as such.

3.14 Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

3.15 Executive Session. 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 similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.16 Action Without A Formal Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.17 Telephonic Participation. One or more directors may participate in and vote during any meeting of the Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

3.18 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 law, the Declaration, the Articles of Incorporation of the Association, or these Bylaws directed to be done and exercised by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparing and adopting an annual budget in which there shall be established the contribution of each member to the common expenses;

(b) making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;



- (f) making and amending rules and regulations;
- (g) opening bank accounts on behalf of the Association and designating the signatories required;
- (h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations and Architectural Guidelines adopted by it, and bringing any proceedings which may be instituted on behalf of or against the members concerning the Association, which enforcement power shall include, without limitation, the power to levy fines as provided herein and in the Declaration in such amounts as from time to time the Board may deem proper in the circumstances, counting each day a violation continues after notice from the Board as a separate violation;
- (i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (j) keeping books with detailed accounts of the receipts and expenditures of the Association and the actions thereof, and specifying the maintenance and repair expenses and any other expenses incurred; and
- (k) authorizing contracts on behalf of the Association.

3.19 Management Agent. 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. Declarant, or an affiliate of Declarant, may be employed as managing agent or manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice.

3.20 Borrowing. The Board of Directors shall have the power to borrow money without the approval of the members of the Association; provided, however, except as otherwise provided in the Declaration, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

3.21 Fining Procedure. A fine shall not be imposed (a late charge shall not constitute a fine) unless and until the following procedure is followed:

- (a) Written notice shall be delivered to the member in accordance with Section 11.12 of the Declaration to the address of the member shown on the Association's records, specifying:
  - (1) the nature of the violation, the fine to be imposed and the date, not less than ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, from the date of the notice, that the fine will take effect;

- (2) that the violator may, within ten (10) days or, in the event of an unapproved sign, twenty four (24) hours, from the date of the notice, request a hearing in writing regarding the fine imposed;
- (3) the name, address and telephone number of a person to contact to challenge the fine;
- (4) that any statements, evidence, and witnesses may be produced by the violator at the hearing; and
- (5) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, of the date of the notice.

(b) If a hearing is requested within the requisite time provided above, it shall be held before the Board in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine shall be imposed prior to the date that is five (5) days or, in the event of an unapproved sign, twenty-four (24) hours, after the date of the hearing, as applicable.

(c) Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the violation recurs, the Board may, upon notice stating the nature of the violation and delivered to the member by first class or certified mail sent to the address of the member shown on the Association's records, impose a fine.

#### Article 4 Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors. This provision shall not apply to officers appointed by the Declarant.

4.2 Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association, the officers of the Association shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors following the election of directors. 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.

4.3 Additional Officers and Agents. The Board of Directors may appoint such other officers, including vice presidents, assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms

and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

4.4 Salaries. The officers shall receive no compensation.

4.5 Removal. Except for officers appointed by the Declarant, any officer may be removed, with or without cause, by the Board of Directors.

4.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall keep the Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Board of Directors.

4.7 Vice President. The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Board or delegated to a Vice President by the President.

4.8 Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors; notify the members and directors of meetings as provided by these Bylaws and Georgia law; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of any officer of the Association; and perform such other duties as the President, or the Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.9 Treasurer. The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

4.10 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors. 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 5  
Committees

Advisory, standing and Ad Hoc committees to perform such tasks and to serve for such periods as may be designated by the Board or as provided in the Declaration are hereby authorized. Each such committee shall be composed and shall operate in accordance with the terms of the Declaration or resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. An advisory, standing or Ad Hoc committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation, the Declaration, these Bylaws or the Nonprofit Code except as expressly provided therein.

Article 6  
Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Board.

6.2 Parliamentary Rules. Unless otherwise determined by the Board of Directors, *Roberts Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation of the Association, the Declaration or these Bylaws.

6.3 Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation of the Association, the Declaration and these Bylaws, the provisions of Georgia law, the Declaration, the Articles of Incorporation of the Association and the Bylaws (in that order) shall prevail.

6.4 Electronic Records, Signatures and Documents. To the extent permitted by Georgia law, the Declaration and these Bylaws, the Association and its members, officers, directors, Owners and Occupants may perform any obligation or exercise any right by use of any technological means providing sufficient security, reliability, identification and verifiability, which technological means have been approved by the Board of Directors in its sole discretion.

6.5 Amendment. These Bylaws may be amended by the Board of Directors, with the consent of the Declarant, if such amendment is necessary to: (a) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) enable an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase Mortgage loans on the Lots subject to the Declaration; (d) enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration; or (e) comply with the provisions of the Georgia

Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner to use such Owner's Lot without the consent of the affected Owner nor shall it adversely affect the rights of the holder of any security interest granted by Declarant without the written consent of such holder. In addition, these Bylaws may be amended upon the affirmative vote, written consent or any combination of affirmative vote and written consent of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant.

Amendments to these Bylaws 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 the Declaration, these Bylaws, the Articles of Incorporation and Georgia law were given.

P:\Clients\3972\Canton Street Commons\HOA\Bylaws.Canton Street Commons 2.doc

EXHIBIT "D"  
Meeting Summary Regarding Zoning Conditions

*[ATTACHED BEGINNING ON FOLLOWING PAGE]*

V. PUBLIC HEARING

A. PH-15-02: Canton Street Commons / Peachtree Residential

A public hearing for the approval of a site plan change. The property is located on Canton Street

- Senior Engineer, Eric Graves, came forward to present this item on behalf of staff
- The subject property is 4.07 acres in size and was rezoned to R-10MHD in 2006 and is located within the Downtown Historic Incentive Overlay District. In 2009, a new site plan was approved with fewer residential units reducing the number of units from 39 to 30 and the property was zoned R-8A.
- The applicant was approved subject the 2009 site plan and now has changes that include a shift to Lots 7 and 8 and Lots 13 -17. The shift to Lots 13-17 creates an additional impact to the specimen Willow Oak which is not recommended by the City Arborist.
- The previous plan depicted a continuous row of townhomes along Canton Street instead of the side elevation as currently shown (Unit 17). The applicant did provide elevations of the side elevation which appear to have a front on Canton Street, however, the encroachment into the specimen oak warrants the plan remain as previously approved.
- The change to Units 7 and 8 does not impact significant specimen trees and can be supported.
- Staff recommends approval with the following conditions
  1. Property shall be zoned R-8AHD (Residential limited to 8 units to the acre within the Historic District) and limited to single family attached with a maximum of up to 30 units.
  2. Site shall be developed substantially as shown on December 15, 2014 site plan prepared by AEC. Applicant shall work with staff to orient Units 13-17 in a manor so as to minimize or completely eliminate encroachment into the critical root zone of 47" Willow Oak.
  3. The critical root zones of specimen trees on neighboring properties shall be protected. Remaining trees shown, including

Tree#696/#536 (47" Willow Oak), shall be saved in a manner approved by the arborist. In addition, Japanese Maples shall be saved and relocated to an onsite area approved by Staff.

4. Recompense for tree # 694 (26" Water Oak) shall be three times due to damages caused by unpermitted work during the week of July 6, 2009.
5. Development shall comply with the architectural and landscape requirements of the Historic Downtown Incentive Zoning.
6. Fencing visible from Canton Street shall be limited to black wrought iron having a height of no more than 42". Wrought iron fencing with a gate surrounding a garden area shall be required in front of each townhome fronting Canton Street, subject to Staff approval.
7. There shall be a 10' minimum front setback along Canton Street. Side and rear setbacks shall be 10' as approved on previous plan.
8. Decks shall not encroach into the building setback line. Decks shall be heavily screened. Unfinished wood deck material shall be prohibited. Units 7-17 shall not be permitted wooden, fencing, outdoor storage, rear yard furniture (except patio appropriate furniture), play equipment and/or accessory buildings. However, decorative wrought iron fence not exceeding 48" shall be permitted if it can be demonstrated that construction will not undermine the critical root zones of specimen trees.
9. Setbacks to the north and west shall be heavily planted with evergreens outside of the critical root zone areas and approved by Staff.
10. Public walkways shall be maintained throughout the duration of construction.
11. Due to history of downstream drainage problems, a downstream analysis of drainage system shall be required. Developer shall tie directly into downstream pipe system on Upshaw Drive. Owner/developer must get appropriate easements for the work. Downstream analysis shall be required to ensure capacity in downstream pipe system and no negative impact to downstream property owners. Over detention shall be required with at least a 75% of pre-development flows or less for the 1 through 100 year storm events.
12. Efforts shall be made to keep pond area out of the CRZ of specimen trees.
13. A minimum of two benches made with traditional black metal shall be placed in open space areas. A bronze sculpture representing the Garden District imagery shall be placed within tree save are fronting Canton Street.
14. Sidewalk along Canton Street shall be brick. Individual unit elevations shall not be repeated within a set of buildings. Buildings shall be treated with similar materials and level of detail on the rear as the front. Main entrances shall include a covering over the front door with an awning or other approved structural element. All residential units shall confirm and conform with the Downtown Historic Incentive Zoning as approved by Staff including wrought iron stair railings with stone/brick finished sides on the stair wells, four sided brick or stone, decorative window finishes and moldings, balustrades, brick deck posts, and shutters. Wood may be used as an accent material, but not as a primary material. Garage door styles shall alternate.



15. Subject to Staff approval, the front elevations of townhouses shall have staggered offsets of at least 18" in order to provide greater distinction between individual units; however, the rear elevations shall not be staggered if doing so causes an encroachment (or further encroaches) into the critical root zone of a specimen tree. Units with gate only attachments interior to site shall not require offsets.
  16. Buildings located along Canton Street shall be designed to face Canton Street. Buildings visible from Canton Street shall either face Canton Street or be designed to have the appearance of facing Canton Street.
  17. Buildings facing Canton Street shall be limited to 35 feet in height.
  18. Units interior to the site shall be connected at a minimum with a garden gate constructed of brick and iron fencing. If townhomes with a common wall are not constructed residential units shall include side courtyards with garden gate as depicted.
  19. Retaining walls visible from public roadways shall be brick faced.
  20. Decorative lampposts shall be required.
  21. Internal roadways shall remain private. No gate shall be used.
  22. Street names shall be selected from 'Garden District Street Name List established by the Community Development Department.
  23. Provide a minimum distance of 18 feet from garage door to residential property edge of sidewalk. Final approval by staff.
  24. One curb cut shall be permitted onto Canton Street and shall include brick pavers. Detention ponds, which are not underground, shall be heavily landscaped with a plan approved by Staff.
  25. Developer shall obtain a geotechnical assessment of the potential construction impact on the adjoining home to the north. Developer shall be responsible for mitigation of any impacts identified in the assessment.
  26. Prior to issuance of the CO for the first residential unit, developer shall submit a copy of the covenants established for the subdivision to the City. The covenants shall include all approved zoning conditions, a copy of the approved plat, and disclosure of future roadway connectivity. A copy of a document signed by each homeowner indicating receipt of the covenants shall be submitted to the City after the sale of each unit.
  27. Provide streetscape consisting of sidewalk, planting strip with street trees, and pedestrian lighting along internal street and Canton Street, as approved by Staff.
  28. Landscaping shall be required when sites for townhomes along Canton Street are pad graded. Landscaping to be installed within 45 days of the grading, curb and gutter and utilities. There shall be no stockpiling on the site for greater than six months.
  29. The applicant is seeking an amendment to the previously approved site plan which was approved in 2009 in order to build a mix of attached and detached single family units.
- After review of the applicant's request, Staff finds that support for a mix of attached and detached product can be supported except for the additional impacts to the 47" Willow Oak. Additionally, the applicant will be required to meet the architectural requirements of the Downtown Incentive Zoning and Downtown Master Plan. The applicant should consider a flat roof townhome

similar to the recently approved townhomes at the corner of Mayfield and Canton Street.

- The development plan for this property and zoning was originally approved in 2009, the consideration is only for a site plan change and the recommended conditions are mostly carried over from the original zoning approval.
- The recently approved Downtown Master Plan calls for alley loaded products which the applicant may also want to consider.
- This item was heard at the March 5 Planning Commission. After discussion, the Planning Commission voted unanimously to recommend approval of the request.
- Alec Rickenbaker, of Peachtree Residential, came forward on behalf of the applicant to make a brief presentation to Mayor and Council

**Public Comment**  
None

- ❖ *Council Member Kennedy offered a motion to approve PH-15-02 Canton Street Commons request to modify the site plan with Staff and Planning Commission conditions with a few changes:*
  - *Condition #2 - changing date on Site Plan to March 10, 2015*
  - *Condition #8 – change units '7-17' to '7-14'*
  - *Condition #18- change units interior to the site may be connected with a garden gate constructed of brick and iron fencing. Detached units shall include side courtyard with garden gate as depicted.*
  - *#23 – adding verbiage to the end which shall state, "Residential property edge of sidewalk as determined or as approved by staff. Provide a minimum distance of 18 feet from garage door to residential property edge of sidewalk or as approved by staff."*
  - *#26 – deleting the last sentence requiring each homeowners receipt of the covenants to be submitted to the City.*
- ♦ *The motion received a second from Council Member Owens*
- *The motion passed by unanimous vote (5-0-0)*