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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
MILL GROVE SUBDIVISION

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THIS INSTRUMENT SUBJECTS THE MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION PROVIDED FOR HEREIN TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, *ET SEQ.*

AMENDED AND RESTATED  
 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
 FOR  
 MILL GROVE SUBDIVISION  
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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
MILL GROVE SUBDIVISION

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MILL GROVE SUBDIVISION** (hereinafter called the "Declaration") is made by **MILL GROVE HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter called the "Association"), and the Owners of Lots within the Community, as those terms are hereinafter defined.

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

**WHEREAS**, Concord Road Development Co., LLC, a Georgia limited liability company, as Declarant, executed that certain Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision, which was recorded March 27, 1998 at Deed Book 11133, Page 1, *et seq.*, Cobb County, Georgia records; as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision, recorded August 14, 1998 at Deed Book 11584, Page 297, *et seq.*, aforesaid records (hereinafter as supplemented and/or amended from time to time collectively referred to as the "Original Declaration"); and

**WHEREAS**, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the Original Declaration to have the power and authority set forth therein; and

**WHEREAS**, pursuant to Article IX, Section 9.03 of the Original Declaration, the Original Declaration may be amended upon a resolution proposing such amendment and subsequent approval of such amendment by "Members" (as that term is defined in the Original Declaration) holding at least two-thirds (2/3) of the total votes in the Association; provided, however, (a) any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee and (b) during any period in which Declarant is the owner of any real property subject to the Original Declaration or has an unexpired option to add additional property to the "Development" (as that term is defined in the Original Declaration), any such amendment must be approved by the Declarant; and

**WHEREAS**, the Board of Directors proposed a resolution proposing to amend the Original Declaration as set forth herein at a duly called Association meeting; and

**WHEREAS**, Members holding at least two-thirds (2/3) of the total votes in the Association approved the amendment to the Original Declaration set forth herein; and

**WHEREAS**, attached as Exhibit "A" hereto and by this reference incorporated herein is the sworn statement of the President of the Association which sworn statement states unequivocally that the agreement of the required Members adopting this Declaration was lawfully obtained; and

**WHEREAS**, attached as Exhibit "B" hereto and by this reference incorporated herein is the sworn statement of the Secretary of the Association which sworn statement states unequivocally that the agreement of the required Members adopting this Declaration was lawfully obtained; and

**WHEREAS**, this Declaration does not materially and adversely affect the security title and interest of any mortgagee; provided, however, in the event a court of competent jurisdiction determines that this Declaration does materially and adversely affect the security title and interest of any such mortgagee without such mortgage holder's consent in writing to this Declaration, then this Declaration shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this Declaration; and if such consent is not forthcoming, then the provisions of the Original Declaration prior to this Declaration shall control with respect to the affected mortgage holder; and

**WHEREAS**, Declarant no longer owns any real property subject to the Original Declaration and no longer has the option to add additional property to the Development; and

**WHEREAS**, the Board of Directors duly adopted the Bylaws of Mill Grove Homeowners Association, Inc., a copy of which is attached as Exhibit "D" hereto and by this reference incorporated herein, in accordance with the Georgia Nonprofit Corporation Code; and

**WHEREAS**, the Association and the Members thereof desire to amend the Original Declaration as set forth herein and intend for such amendment to be prospective only; and

**WHEREAS**, the Association and the Owners desire to submit the Community to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.*, as the same is in effect on the date hereof pursuant to the terms and conditions hereinafter set forth;

**NOW THEREFORE**, the Association and the Owners hereby submit the Community to the provisions of the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.*, and amend the Original Declaration by deleting the same in its entirety and in its place adopting this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision, hereby declaring that all the property now or hereafter subject to the Original Declaration 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, as follows:

Article 1  
Definitions

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

1.1 "Act" means the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*, as may be amended from time to time.

1.2 "Articles of Incorporation" means the Articles of Incorporation of Mill Grove 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 Mill Grove 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 manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*

1.5 "Bylaws" means the Bylaws of Mill Grove Homeowners Association, Inc., attached to this Declaration as Exhibit "D" 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 "C", 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, including, without limitation, as may be delineated in part by the rules and regulation and the Architectural Guidelines (as defined in Article 6 hereof).

1.9 "Lot" means any plot of land within the Community, whether or not improvements are constructed thereon which constitutes or will constitute a single family dwelling site as shown on the subdivision plat(s) for the Community recorded in the land records of Cobb County, Georgia. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, all of the rights and

interest of an Owner in the Common Property, as herein provided, together with membership in the Association.

1.10 "Mortgage" means any and all instruments used for the purpose of encumbering 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.

1.11 "Mortgagee" means the holder of a Mortgage.

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

1.13 "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.

1.14 "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.

1.15 "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.16 "Total Association Vote" means the votes attributable to the entire membership of the Association 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. As a further illustration, if a majority vote is required to approve a matter (and the term Total Association Vote is not used), such matter must receive more than half of the votes cast by the members entitled to vote on the matter.

## 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 all of

the real property previously subjected to the Original Declaration, as the same may be more particularly described in Exhibit "C" attached hereto and by this reference made a part hereof.

2.2 Annexation. Upon the written consent of: (a) the owner(s) thereof; and (b) 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 Cobb County, Georgia, 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, unless a later effective date is provided therein.

### 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 the 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) office be held for each Lot owned. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association.

3.2 Voting. Members shall be entitled to 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 or rules and regulations.

### 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) annual assessments; (b) special assessments; and (c) specific assessments. All such assessments, together with late charges (not to exceed the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount due, or such higher amount as may be authorized by the Act from time to time), interest (at a rate not in excess of ten percent (10%) per annum on the principal amount due, or such higher amount as may be authorized by the Act from time to time) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred, shall, from the time the sums become due and payable, be a charge on the land and shall be a continuing lien in favor of the Association on the Lot against which each assessment is made. Pursuant to the Act, 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 such assessment, together with such late charges, interest and costs, 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 successor-in-title 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 successor-in-title for the unpaid assessments of the Owner shall not apply to any first Mortgagee taking title through foreclosure proceedings. No Owner may waive or otherwise exempt themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or nonuse of the Common Property. 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 General Assessments. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the annual 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 any annual assessment. The budget and the annual assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves 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. Annual 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 assessment shall be paid in one (1) annual installment. Annual assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of 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. Annual assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities provided by the Association, if any, cleaning and janitor services, landscape maintenance, costs associated with the maintenance and operation of

the storm water drainage facilities and storm water detention/retention ponds in the Community and expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

4.4 Special Assessments. The Association, acting through the Board of Directors, may levy a special assessment of up to Two Hundred and No/100 Dollars (\$200.00) per Lot per year without a vote of the Association. In the event the Board levies a special assessment in an amount greater than Two Hundred and No/100 Dollars (\$200.00) per Lot per year then such special assessment must be approved by a majority of the Total Association Vote to become 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.

4.5 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. 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. Fines levied pursuant to this Declaration, the initiation fee and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which benefit less than all of the Lots or significantly disproportionately benefit all the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; or (b) expenses of the Association occasioned by the conduct of less than all of those entitled to occupy all of the Lots, or by the Occupant(s), licensees or invitees of any such Lot(s), may be specially assessed against such Lot(s).

4.6 Subordination of Liens to Mortgages. 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.

4.7 Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and as provided in the Act, 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 not in excess of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount due, or such higher amount as may be authorized by the Act from time to time, and interest (at a rate not in excess of ten percent (10%) per annum on the principal amount due, or such higher amount as may be authorized by the Act from time to time) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred. The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of Cobb County, Georgia, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. Each Owner, by acceptance of a deed, vests in the Association the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all Owners. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also suspend, without further notice or hearing, the membership rights of the delinquent Owner, including the right to vote, the right of 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. Any such suspension shall not affect such 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.

4.8 Date of Commencement of Assessments. Assessments shall commence as to all Lots when the Board of Directors first determines a budget and levies assessments. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide.

4.9 Failure to Assess. Notwithstanding anything herein to the contrary, 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.

4.10 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 respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee not to exceed Ten and No/100 Dollars (\$10.00), or such higher amount as may be authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

4.11 Capital Budget and Contribution. Each year, the Board shall prepare an annual capital budget or evaluation which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the Association's projected capital needs both as to amount and timing by annual assessments over the period of the budget. Any required capital contribution shall be included within the budget and assessment as provided in Section 4.3 hereof and such amounts collected shall be maintained in a segregated account. Funds in the capital reserve account, if any, may only be used by the Association to make capital improvements to the Common Property which the Association is obligated to maintain, to fund unforeseen or unanticipated expenditures in excess of those budgeted or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. Such expenditures from the Association capital reserve account shall be made in the Board's sole discretion, and shall not require the approval of the Owners.

4.12 Initiation Fee. Upon the conveyance of title for each and every Lot in the Community, an initiation fee in the amount of One Hundred and No/100 Dollars (\$100.00) shall be collected from the new Owner at the closing of such transaction and paid to the Association; or if not collected at closing, paid immediately upon demand by the Association. The initiation fee shall constitute a specific assessment against the Lot, shall be in addition to, not in lieu of, the annual general assessment and shall not be considered an advance payment of such assessment. The initiation fee shall be placed in the specially designated capital reserve account and shall be for the purpose of making capital improvements to the Common Property which the Association is obligated to maintain, funding unforeseen or unanticipated expenditures in excess of those budgeted or acquiring additional equipment or services deemed necessary or desirable by the Board of Directors. This specific assessment 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 the Lot from the foreclosing Mortgagee.

Article 5  
Maintenance Responsibility: Common Property and Lots

5.1 Association's Responsibility. Except as provided in Section 5.2 hereof, the Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain (whether or not constituting Common Property) the following: (a) all Community entry features, including entry area landscaping, signage and monuments regardless of whether or not such landscaping, signage or monuments are located on a Lot, privately owned property or public right-of-way and any irrigation system and the expenses for water and electricity, if any, provided to such Community entry features; (b) landscaping improvements located on the Common Property, if any; (c) the storm water detention pond and storm water drainage facilities located on the Common Property, if and to the extent such facilities are not maintained on an on-going basis by a government entity; provided, however, the Association shall not be responsible for any storm water drainage facilities exclusively serving a Lot; and (d) all Community walls and fencing, including, without limitation, any fence surrounding the storm water detention/retention pond serving the Community, and any perimeter wall(s) and/or fencing. 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 addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community and to enter into easements and covenant to share costs agreements regarding such property where the Board has determined that such maintenance would benefit Owners. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment.

5.2 Owner's Responsibility. Except for maintenance performed on a Lot by the Association pursuant to Section 5.1, if any, all maintenance of the Lot and all structures, landscaping, and other improvements thereon 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. The obligation of the Owner of a Lot hereunder shall include, without limitation, the following: prompt removal of all litter, trash, refuse, and waste; lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping improvements and exterior lighting clean, attractive and in good repair and working order, including, without limitation, periodic painting, pressure washing and/or mildew removal as needed; keeping lawn and garden areas alive, free of weeds, and attractive; keeping driveways, walkways and other concrete improvements in good repair; complying with all governmental health and police requirements; maintenance of grading and storm water drainage as originally established on the Lot; and repair of exterior damages to structures and other improvements. Each Owner shall promptly report to the Association any defect or need for repairs for property or improvements for which the Association is responsible. 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 necessary 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 deemed necessary. The Owner shall have thirty (30) 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 thirty (30) day period, to commence such work which shall be completed within a reasonable period of time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner and the Lot as a specific assessment.

5.3 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 all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Community.

5.4 Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, the Association, if reasonably possible, shall restore or replace such improvements so taken 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. The provisions of this Declaration applicable to 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.

5.5 Liability. Owners, Occupants and their guests shall use the common areas maintained by the Association and all other Common Property and all portions of the Community not contained within a Lot 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 defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association and its officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person occurring, nor for loss or damage to personal belongings used or stored on the Common Property or any other portion of the Community. The Association shall not be liable for injury or damage to any Person or property (a) caused by the elements or by an Owner or any other Person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or from any portion of the Common Property, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or Occupant or guest thereof for loss or damage, by theft or otherwise, of any property thereof.

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, excavation, grading, filling, construction of impervious surface, building, exterior alteration of existing improvements, change in the exterior color of any existing improvement, permanent exterior lighting (except for reasonable seasonal decorative lights displayed during the usual and common season, as the same may be determined from time to time by the Board of Directors), and planting and removal of landscaping materials (except for seasonal planting and landscaping consistent with the Community-Wide Standard and any applicable architectural guidelines and landscaping guidelines adopted hereunder), shall be commenced or placed upon any part of the Community unless, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. However, modifications to the interior of porches, patios and similar portions of a structure visible from outside the Lot shall be subject to approval. No approval shall be required to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to improvements to the Common Property by or on behalf of the Association.

6.2 Guidelines and Procedures. Except as provided above, no exterior construction, addition, alteration or modification shall be made unless and until plans and specifications shall have been submitted in writing to and approved by the Board of Directors. Such plans and specifications shall be of sufficient detail to allow the Board to make its review and to the extent required by the Board shall show the nature, kind, shape, height, materials and location of the proposed improvement. The Board of Directors shall have sole and full authority to prepare and amend, from time to time at its sole discretion and without notice, the architectural guidelines, landscaping guidelines and any application and review procedures applicable to the Community ("Architectural Guidelines"), which may provide for payment of any reasonable cost associated with the review of submitted plans and specifications, including, without limitation, an administrative fee. The Board of Directors shall make the Architectural Guidelines available to Owners who seek to engage in construction upon all or any portion of the Community and such Owners shall conduct their operations strictly in accordance therewith. If the Board of Directors fails to approve or to disapprove submitted plans and specifications within sixty (60) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. 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 maintenance, repair, replacement and insurance to and on any improvement, change, modification, addition or alteration. In the discretion of the Board of Directors, 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 Board of Directors shall be the sole arbiter of such plans 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 these restrictions. The Board of Directors and its representatives 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. Such

Persons shall not be deemed guilty of trespass by reason of such entry. If construction does not commence on a project for which plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the Board of Directors for reconsideration.

6.3 Limitation of Liability. Plans and specifications are not approved for engineering or structural design or quality of materials and by approving such plans and specifications the Association and the Board assume no liability or responsibility therefor or for any defect in any structure constructed from such plans and specifications. Neither the Association, nor the officers, directors, members, employees and agents of the Association 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 Association or its officers, directors, members, employees 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.

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

6.5 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration 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 shall (a) be effective unless in writing, (b) be inconsistent with the overall scheme of development for the Community, or (c) estop the Board of Directors 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.

6.6 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board of Directors, Owners shall, at their own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board 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 attorney's fees actually incurred, may be

assessed against the Lot as a specific assessment. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Architectural Guidelines may be excluded by the Board of Directors from the Community, subject to any applicable notice and hearing procedures contained in the Bylaws. Neither the Association nor its officers, directors, members, employees and agents shall be held liable to any Person for exercising the rights granted by this paragraph, including, without limitation, claims for damages resulting from the removal of the non conforming structure or improvement in accordance with the procedures set forth herein. In addition to any other remedies available to the Association and the Board, in the event of noncompliance with this Article, the Board may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, the Board of Directors 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 as provided herein, subject to any applicable notice provisions.

6.7 Architectural Control Committee. The Board of Directors shall have the sole right, power and authority under this Article. Notwithstanding the foregoing, the Board of Directors may, but has no obligation to, establish an Architectural Control Committee ("ACC"), which shall then have such rights, powers and authority as may be granted to it by the Board of Directors, including the responsibility of reviewing and approving building and construction activity within the Community. The Board of Directors may grant the ACC all of its rights, powers and authorities hereunder, or may grant the ACC 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 ACC, this Article or portions thereof, as appropriate, shall then be read and interpreted as if any reference to the Board of Directors in this Article 6 were a reference to the ACC. 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 Architectural Control Committee.

## Article 7 Use Restrictions and Rules

7.1 General. Except to the extent the same may be a violation of any provision of the Original Declaration, any alterations, changes or modification to architecture or landscaping originally installed on Lots as of the date this Declaration is recorded in the Cobb County, Georgia records shall be deemed an approved change pursuant to Article 6 hereof.

7.2 Rules and Regulations. The Board of Directors may, from time to time 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.

7.3 Residential Use. Each Lot shall be used for residential purposes exclusively. Leasing of a Lot for residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or

Occupant residing at the Lot may conduct business activities within the house so long as the business activity: (a) does not otherwise violate the provisions of the Declaration, Bylaws or rules and regulations of the Association; (b) is not apparent or detectable by sight, sound or smell from the exterior of the 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; and (h) does not threaten the security or safety of other residents of the Community, all as may be determined in each case in the sole discretion of the Board of Directors. The Board may issue rules regarding permitted business activities. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity.

7.4 Signs. No sign of any kind shall be erected or displayed within the Community without the prior written approval pursuant to Article 6 hereof, except: **(a)** one (1) professional security sign consistent with the Community-Wide Standard not to exceed four inches (4") by four inches (4") in size; **(b)** such signs as may be required by legal proceedings; and **(c)** one (1) professionally lettered "For Sale" sign not to exceed two feet (2') by two feet (2') in size displayed in connection with a Lot being offered for sale. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. 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.

7.5 Vehicles; Parking. Vehicles shall be parked only in appropriate parking spaces serving the Lot or other designated parking areas established by the Board, from time to time, 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 "appropriate parking spaces serving the Lot" shall refer to the number of garage parking spaces of each Lot, and if and only if the Occupants of a Lot have more vehicles than the number of garage parking spaces, those excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway of the Lot; provided, however, no vehicles parked in the driveway shall encroach onto the sidewalks in the Community. No overnight, on-street parking, except as may otherwise be approved by the Board in writing, shall be permitted within the Community. All parking shall be subject to such further reasonable rules and regulations as the Board may adopt from time to time. All homes shall contain a garage; carports shall not be permitted. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage. Garages shall be used for parking of vehicles and shall not be used primarily for storage or other purposes. No vehicle may be left upon any portion of the Community, except in a garage, if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. No towed vehicle, boat, personal watercraft, recreational vehicle, motor home, trailer, motorcycle,

minibike, scooter, go-cart, golf cart, commercial vehicle, camper, bus, mobile home or any vehicle which is thirty (30) feet or more in length shall be regularly stored in the Community or temporarily kept in the Community, except if kept in a garage or other area designated by the Board, if any, for a period of longer than twenty-four (24) hours (the intent of this provision is that the aforementioned vehicles may not be stored in the Community except in a garage located on a Lot except and the temporary removal of such vehicle to break the continuity of the twenty-four (24) hours shall not be sufficient to establish compliance with this restriction). Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

Commercial vehicles shall not be permitted on any portion of the Community, including, without limitation, on any Lot, except if kept in an enclosed garage; provided, however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Property; and provided, further, that this provision shall not apply to federal, state, or local governmental law enforcement vehicles. The term "commercial vehicles" as used herein, shall include, without limitation, any vehicle which bears the indicia of commercial use, including but not limited to writing, logos, ladders, ladder racks, or vehicles which are not primarily used for the transportation of passengers or having visible work equipment stored in or on the vehicle. No eighteen wheel trucks or the cabs of such trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept or stored within the Community except during the time reasonably necessary to provide service or delivery within the Community.

7.6 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, small caged birds, mice, gerbils, guinea pigs and fish kept in an aquarium in a reasonable number as determined by the Board from time to time; provided, however, in no event shall the number of pets allowed pursuant to this Section exceed such number as may be allowed pursuant to any applicable Cobb County, Georgia ordinances and regulations. 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; provided, however, in no event shall any chain link dog run, tethered dog run or wire pen be approved. Pets shall at all times when outside the dwelling on a Lot or on the Common Property be supervised and be kept on a leash or otherwise under physical control. 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. An Owner shall not allow any animal waste to remain on any portion of a Lot or any other portion of the Community. Pet waste deposited on a Lot or any other portion of the Community must be immediately removed and disposed of by the owner of the pet or the person responsible for the pet. The Association may adopt reasonable rules and regulations designed to minimize damage and disturbance to other Owners and Occupants, including regulations requiring damage deposits, waste removal, leash controls, noise controls, and occupancy limits based on size and facilities of the Lot. The Board may require that any animal which, in the Board's sole opinion, endangers the health of any Owner or Occupant, or creates a nuisance or unreasonable

disturbance, be permanently removed from the Community upon seven (7) days written notice. If the Owner or occupant fails to do so, the Board may remove the animal. Any animal which, in the Board's sole discretion, presents an imminent danger to the health, safety or property of any Person may be removed by the Board without prior notice to the animal's owner. Any Owner or occupant who keeps or maintains any animal within the Community shall be deemed to have agreed to indemnify and hold harmless the Association and its directors, officers, employees and agents from and against any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Community.

7.7 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 Lot shall be used for the storage of anything 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 exterior speakers, horns, whistles, sirens, bells, amplifiers or other sound devices, 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, vibrations or any other conduct which creates any noxious or offensive odors outside a home shall be permitted, located, used, placed, installed or maintained on 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.

7.8 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 except within a garage on a Lot.

7.9 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting radio 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 Lot: (a) antennae designed to receive direct broadcast satellite services, including direct-to-home satellite services or 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 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 in such location so that it is screened from view of neighboring Lots or Common Property and, unless an acceptable quality signal cannot otherwise be obtained, on the rear of the Lot. Any permitted antennae shall be installed and maintained only in accordance with Federal Communication Commission ("FCC") rules and the Architectural Guidelines, both as may be amended from time to time; provided, however, that to the extent that the Architectural Guidelines may conflict with the rules and regulations of the FCC, the applicable rules and regulations of the FCC shall govern. Notwithstanding anything to the contrary herein, an Owner shall provide the Board of Directors or the ACC with any notification form as may be required pursuant to the Architectural Guidelines prior to installing any approved satellite dish, antenna or similar apparatus on a Lot.

7.10 Tree Removal. The Association and Owners shall comply with all zoning conditions and local ordinances applicable to tree removal. Any Owner shall obtain approval in accordance with Article 6 hereof for the removal of any tree; provided, however, no approval shall be required to remove any tree that is diseased, dead or fallen.

7.11 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 flows after 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.

7.12 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.

7.13 Garbage Cans, Woodpiles, Etc. All garbage cans, recycling bins, woodpiles, filters and related equipment, and other similar items shall, to the extent reasonably practicable, be kept in the garage or located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash, garbage, recycling materials and yard waste shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, construction waste, yard waste, or other organic or non-organic waste matter of any kind may not be burned within the Community. No garbage, trash, yard waste or other debris shall be placed on the Common Property, temporarily or otherwise. Trash, recycling and yard waste receptacles shall be placed at the curb no earlier than 6:00 p.m. the day before pick up and shall be removed no later than 9:00 p.m. the day of pick up, as the case may be. All Owners and Occupants shall comply with any applicable Cobb County, Georgia ordinances and regulations regarding collection of garbage, recycling materials and yard waste; and garbage, recycling and yard waste collection shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt from time to time.

7.14 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval in accordance with the provisions of Article 6 hereof.

7.15 Firearms and Fireworks. The display or discharge of firearms or fireworks within the Community is prohibited; provided, however, that the display of lawful firearms is permitted by law enforcement officers and also is permitted for the limited purpose of transporting firearms to or from a Lot. The term "firearms" includes "B-B" guns, pellet guns, paint-ball guns, archery equipment, including, without limitation, bows and arrows, and firearms of all types, regardless of size. The term "fireworks" shall include, but not be limited to, those items as listed in O.C.G.A. Section 25-10-1, as amended.

7.16 Fences and Walls. No fence or wall or fencing-type barrier or wall-type barrier of any kind shall be placed, erected, allowed or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof. Guidelines detailing acceptable fence and/or wall styles or specifications may be issued pursuant to Article 6, but in no event may a chain link, hog wire or barbed wire fence be approved; provided, however, the Association may erect any type of fence or wall on the Common Property or elsewhere within the Community as it 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.

7.17 Utility Lines. Except as may be permitted under and pursuant to Article 6 hereof, no overhead utility lines, including lines for cable television, shall be installed within the Community.

7.18 Heating and Air-Conditioning Units. No window heating and/or air conditioning units may be installed in a dwelling on a Lot.

7.19 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) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; (e) reasonable seasonal decorative lights displayed during the usual and common season(s), as the same may be determined from time to time by the Board of Directors; or (f) other lighting approved under and pursuant to Article 6 hereof or otherwise consistent with the Architectural Guidelines.

7.20 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless as an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Board of Directors and unless approved in accordance with the provisions of Article 6 hereof.

7.21 Artificial Vegetation, Gardens, Play Equipment, Exterior Sculpture, Water Features and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals and trampolines), exterior sculpture, fountains or water features may be erected on any Lot, without the prior written approval in accordance with the provisions of Article 6 hereof and compliance with written guidelines established under Article 6 hereof, as applicable. Any vegetable garden, hammock, statuary, play equipment or pool approved pursuant to Article

6 hereof must be located between the rear of the dwelling and the rear lot line and otherwise in compliance with the written guidelines promulgated pursuant to Article 6 hereof.

7.22 Mailboxes and Posts. All mailboxes and mailbox posts serving Lots shall be approved in accordance with the provisions of Article 6 hereof. Identical replacement mailboxes and mailbox posts may be installed without further approval; but no modification to or change in mailboxes or mailbox posts may be made unless approved in accordance with the provisions of Article 6 hereof.

7.23 Clotheslines. No exterior clotheslines of any type or similar items shall be permitted upon any Lot, nor shall any clothing, rugs or other items be hung on any railing, fence hedge or wall outside of any Lot.

7.24 Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed on any Lot, or any part of any easement area associated therewith, without prior approval in accordance with the provisions of Article 6 hereof.

7.25 Outbuildings and Similar Structures. No structure, including, without limitation, any trailer, tent, shack, carport, garage, barn or other outbuilding, shall be erected or allowed to remain on any Lot without prior written approval in accordance with the provisions of Article 6 hereof; and no trailer, camper, shack, tent, carport, garage, barn or other outbuilding or structure may be used as a residence, either temporarily or permanently.

7.26 Window Treatments. All windows shall have window treatments and any portion thereof visible from outside the Lot shall be white or off-white in color, unless otherwise approved in accordance with Article 6 hereof or otherwise consistent with applicable Architectural Guidelines, if any. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. Bed sheets, blankets, towels, black plastic, paper and similar type items shall not be used as window treatments.

7.27 Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without prior written approval pursuant to Article 6 and in no event shall any above-ground swimming pool be permitted; provided, however, portable wading pools placed in accordance with the Architectural Guidelines shall be permitted on a Lot.

7.28 Flags. No flags may be displayed on any Lot without prior written approval in accordance with the provisions of Article 6 hereof or otherwise in accordance with the Architectural Guidelines; 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 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.

7.29 Leasing. In order to protect the equity of the individual Owners, to carry out the purpose for which the Association was formed by preserving the character of the Community as a homogenous residential community of predominantly owner-occupied homes and by preventing the Community from assuming the character of a renter-occupied neighborhood, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Section. The Board of Directors shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section. Any lease which does not comply with this Section shall be voidable at the option of the Board of Directors. Except as provided herein, the leasing of Lots or any portion(s) thereof shall be prohibited.

(a) Definition. Leasing means the regular, exclusive occupancy of a Lot by any Person(s) other than the Owner for which the Owner received any consideration or benefit, including, but not limited to, a fee, rent, service, gratuity or emolument. For purposes hereof the following shall not constitute leasing: (i) occupancy by a roommate of an Owner-Occupant; (ii) occupancy by a member of the Owner's family, (iii) occupancy by one or more wards if the Lot is owned by their legal guardian, or (iv) occupancy by one or more beneficiaries of a trust if the Lot is owned in trust by the trustee.

(b) General. No Owner of a Lot may lease his or her Lot or any portion(s) thereof except as provided below for cases of undue hardship.

(c) Undue Hardship The Board of Directors shall be empowered to allow reasonable leasing of a Lot upon application and approval in accordance with this Section to avoid undue hardship, including, but not limited to the following situations: (1) a Lot Owner must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) the Owner dies and the Lot is being administered by his or her estate; and (3) the Owner temporarily relocates and intends to return to reside in the Lot, in which case the Lot Owner must reapply every year for renewal of the hardship exception.

Any Owner who believes that he or she must lease his or her Lot to avoid undue hardship shall submit a written application to the Board of Directors setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board of Directors may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board of Director's written approval of the Owner's application.

Those Owners who have complied with this subsection, have demonstrated that the inability to lease their Lot would result in undue hardship and have obtained the requisite written approval of the Board of Directors may lease their Lots in accordance with subsection (d) below for such duration as the Board of Directors reasonably determines is necessary to prevent undue

hardship. Each Owner permitted to lease his or her Lot in accordance with this subsection shall be required to reapply each and every year or with such other frequency as may be determined by the Board of Directors from time to time for renewal of the hardship exception.

(d) Leasing Provisions. Any leasing permitted under this Section shall be governed by the following provisions:

(i) General. Lots may be leased only in their entirety; no fraction or portion of a Lot may be leased. All leases shall be in writing. There shall be no subleasing or assignment of leases unless approved in writing by the Board. Except as otherwise provided herein, all leases must be for an initial term of one (1) year, except with express written approval by the Board of Directors, which approval shall not be unreasonably withheld. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations and the lease shall provide that the Owner has made available to the lessee copies of the Declaration, Bylaws, and the rules and regulations.

(ii) 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 a copy of the lease and the name of the lessee and all other people occupying the Lot, the phone number of the lessee and the Owner's address and phone number other than at the Lot and other such information as the Board of Directors may reasonably require.

(iii) Liability for Assessments, Use of Common Property, and Compliance with Declaration, Bylaws, and Rules and Regulations. 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:

(1) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance. Owner agrees to cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, the rules and regulations adopted pursuant thereto and the Architectural Guidelines 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, rules and regulations adopted pursuant thereto and the Architectural Guidelines. In the event that the lessee or a person living with the lessee violates the Declaration, Bylaws, Architectural Guidelines or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with the Declaration and Bylaws. If the fine is not paid by the lessee within the time period established by the Board, the Owners shall pay the fine upon notice from the Association of the lessee's failure to pay such fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, Bylaws, or rules and regulations 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 and/or Occupant(s) in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from violations of the Declaration, Bylaws and rules and regulations of the Association adopted thereunder, including the power and authority to terminate the lease without liability upon such violation(s) and to evict the lessee and/or the Occupant(s) as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof, it being hereby agreed that in such instance the Association shall have standing to terminate the lease and initiate dispossessory proceedings against the lessee and/or the Occupant(s). In the event the Association proceeds to evict the lessee and/or the Occupant(s) of a Unit, any costs, including reasonable attorney's fees actually incurred and court costs, associated with the eviction shall be an assessment and lien against the Unit.

(2) Use of 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.

(3) Liability for Assessments. When a Lot Owner who is leasing his or her Lot fails to pay any annual, special or specific assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid annual, 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 he or she would otherwise be responsible.

(e) Exemption. This subsection shall not apply to any leasing transaction entered into by the Association or an institutional 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 first mortgage.

## Article 8 Insurance and Casualty Losses

8.1 Insurance on Common Property. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation,

the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U.S. Department of Housing and Urban Development, as applicable to the Community. Accordingly, the Board of Directors shall obtain casualty insurance for all insurable improvements located on the Common Property and for all insurable improvements whether or not located on the Common Property, which the Association is obligated to maintain; provided, however, nothing herein shall require the Association to insure any property or improvements required to be insured by an Owner pursuant to Section 8.2 hereof. This insurance 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 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 Dollars (\$1,000,000.00). Policies may contain a reasonable deductible as determined by the Board of Directors. In addition to the other insurance required by this Section, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the policy is in force, or any lesser amount of fidelity coverage allowable under the applicable Fannie Mae guidelines. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

8.2 Individual Insurance. 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 individual Lots and any and all other insurable improvements thereon, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on the Lot and all structures constructed thereon, and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available 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 policies required hereunder shall be in effect at all times.

8.3 Damage and Destruction -- Insured by Association. Immediately after damage or destruction by fire or other casualty to any portion of any 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 two-thirds (2/3) of the Total Association Vote. 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 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.

8.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement 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 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 may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction and thereafter shall maintain said 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.

## Article 9 Mortgage Provisions

9.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is

not cured within sixty (60) days; and (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

9.2 Financial Records. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such eligible holder shall be entitled to receive a copy of financial statements of the Association within ninety (90) days of the date of the request.

9.3 No Priority. No provision of this Declaration or the Bylaws gives any Owner or other party priority over any rights of a Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

## 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, those easement established in the Original Declaration, as well as the easements now or hereafter established by the Association in this Declaration or by any other documents recorded in the Office of Clerk of Superior Court of Cobb 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 in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(a) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, 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, 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 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 any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community);

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

(c) the right of the Association to dedicate, transfer or convey all or any portion of the Common Property upon the approval of the Owners of at least two thirds (2/3) of the Lots;

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

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

10.3 Delegation of Use. Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family and tenants who occupy the Lot and shall be deemed to have made a delegation of all such rights to the Occupants of any leased Lot.

10.4 Easements for Structural Support. Each Lot or improvement on a Lot which contributes to the structural support of another Lot or improvement on such Lot shall be burdened with an easement of structural support. Said easement for structural support shall be appurtenant to and shall pass with the title to every benefitted and burdened Lot.

10.5 Entrance Easements. Easements for erection and maintenance of entrance monuments, subdivision signs, walls, fences and other structures intended to provide an attractive atmosphere or to provide privacy to Owners within the Community, as may be set forth on the plats of survey of the Community recorded in the Cobb County, Georgia, land records, were established pursuant to the Original Declaration. Such Easements shall be perpetual in duration and shall include the right to erect, maintain, repair, replace and re-erect any such structures within the easement areas, as well as the right to plant grass, plants, flowers, shrubs and trees, to tend and garden the same, and to generally landscape the area within said easements to keep them clean, attractive and uniform in appearance for the benefit of all Owners within the Community. All Owners taking title to any Lot upon which such an easement lies will take title subject to the easement rights set forth herein, as well as such rights as may be set forth in the deed conveying such easements to the Association, if any. Such easements shall be Common Property.

10.6 Encroachment Easements If any buildings or other improvements constructed during the initial development of the Community or initially constructed by any Owner who constructed the original dwelling so long as said Owner has had the plans for the original dwelling approved by the ACC, on any of the Lots including without limitation any eaves, roof overhangs, balconies, siding, porches, or other structures which may be attached to the walls and roof of such buildings, encroach onto or over or extend into the air space of any portion of the Common Property, or, conversely, if any such improvements initially constructed on the Common Property encroach onto or over portions of any Lot, a valid easement for the encroachment and for the maintenance, repair and replacement thereof, shall exist so long as the encroachment exists.

10.7 Environmental Easements. As established in the Original Declaration, the Association and its agents, employees, successors and assigns enjoy an alienable, transferable and perpetual right and easement on, over and across all Lots and all unimproved portions of the

Community for the purpose of taking any action necessary to effect compliance with environmental rules and regulations from time to time promulgated or instituted by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides.

Article 11  
General Provisions

11.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations and use restrictions, as amended or modified from time to time, the Architectural Guidelines 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. The Board of Directors may impose fines or other sanctions for violations of the foregoing, which shall be collected as provided herein for the collection of assessments and the Board may count each day a violation continues after notice thereof as a separate violation. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, including, without limitation, reasonable attorney's fees actually incurred, maintainable by the Association or an aggrieved Owner. Failure by 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. 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, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and the 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 of Directors 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, 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 by law and by this Declaration. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

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 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 Amendment. The Association, acting through the Board of Directors and without any further consent or action on the part of the members, may amend this Declaration for those specific purposes permitted under Georgia law, including, without limitation, if such amendment is necessary to bring any provision hereof into compliance with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* In addition, this Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote or written consent, of Owners holding at least two-thirds (2/3) of the Total Association Vote. 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. Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein.

11.6 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.

11.7 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.

11.8 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.

11.9 Preparer. This Declaration was prepared by Michael E. Leavey and Rachel E. Conrad, Dorough & Dorough, LLC, Attorneys at Law, Two Decatur TownCenter, 125 Clairemont Avenue, Suite 520, Decatur, Georgia 30030.

11.10 Notices. 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 or to the Association at the address of its registered agent on file with the Georgia Secretary of State. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Owners shall keep the Association advised of their current address and phone numbers 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 courier service. 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.

11.11 No Discrimination. No action shall be taken by 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, disability or sexual orientation.

11.12 Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

11.13 Notice of Sale or Acquisition. 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 and mailing address of the Owner and such other information as the Board may reasonably require. All Owners shall keep the Association apprised of any change in name, address or telephone number.

11.14 Agreements. 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.

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

11.16 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least two-thirds (2/3) of the Total Association Vote. 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 as provided herein or is approved by the percentage votes necessary to institute proceedings as provided above.

11.17 Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, AND THE ARCHITECTURAL CONTROL 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 THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL CONTROL 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 OF THE COMMUNITY OR OTHERWISE; AND THAT EACH OWNER,

OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, THE BOARD OF DIRECTORS, AND THE ARCHITECTURAL CONTROL 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 OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

11.18 Submission to Georgia Property Owners' Association Act; Conflict. The property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.* (the "Act"). In the event of a conflict between the provisions of this Declaration and the provisions of the Act then to the extent that the provisions of the Act cannot be waived by agreement, the Act shall control.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association hereby executes this instrument under seal,  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ASSOCIATION: **MILL GROVE HOMEOWNERS  
ASSOCIATION, INC.**, a Georgia nonprofit  
corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: President

Attest: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Secretary

Signed, sealed and delivered  
in the presence of

[AFFIX CORPORATE SEAL]

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]

EXHIBIT "A"  
Sworn Statement of President of  
Mill Grove Homeowners Association, Inc.

STATE OF GEORGIA

COUNTY OF COBB

Re: Mill Grove Homeowners Association, Inc.

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the President of Mill Grove Homeowners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his own personal knowledge.
3. The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision was approved by Members holding at least two-thirds (2/3) of the total votes in the Association as provided by law and the Original Declaration.
4. The Bylaws of Mill Grove Homeowners Association, Inc., attached to the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision as Exhibit "D", was duly adopted by the Board of Directors in accordance with the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*
5. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20 and Article IX, Section 9.03(c) of the Declaration.

This the \_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: President

Sworn to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 2007:

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

[AFFIX NOTARY SEAL]

EXHIBIT "B"  
Sworn Statement of Secretary of  
Mill Grove Homeowners Association, Inc.

STATE OF GEORGIA

COUNTY OF COBB

Re: Mill Grove Homeowners Association, Inc.

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the Secretary of Mill Grove Homeowners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his own personal knowledge.
3. The foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision was approved by Members holding at least two-thirds (2/3) of the total votes in the Association as provided by law and the Original Declaration.
4. The Bylaws of Mill Grove Homeowners Association, Inc., attached to the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mill Grove Subdivision as Exhibit "D", was duly adopted by the Board of Directors in accordance with the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*
5. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20 and Article IX, Section 9.03(c) of the Declaration.

This the \_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Secretary

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, 2007:

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

[AFFIX NOTARY SEAL]

EXHIBIT "C"  
Property Description

ALL THAT TRACT OR PARCEL OF LAND LYING and being in Land Lots 116, 117 and 172 of the 17th District, 2nd Section, Cobb County, Georgia, containing approximately 10.323 acres, including, without limitation, Lots 1 through 3 and Lots 29 through 42, as more particularly shown on that certain **Final Subdivision Plat for Mill Grove Unit I**, prepared by Rochester & Associates, Inc., containing the seal of James C. Jones, G.R.L.S. No. 2298, dated March 17, 1998, recorded April 6, 1998 in Plat Book 172, Page 63, Cobb County, Georgia land records, reference to said plat of survey and the record thereof being hereby made for a more complete description.

TOGETHER WITH:

ALL THAT TRACT OR PARCEL OF LAND LYING and being in Land Lots 116, 117 and 172 of the 17th District, 2nd Section, Cobb County, Georgia, containing approximately 14.896 acres, including, without limitation, Lots 4 through 28 and "Common Area Detention Pond", as more particularly shown on that certain **Final Subdivision Plat for Mill Grove Unit II**, prepared by Rochester & Associates, Inc., containing the seal of James C. Jones, G.R.L.S. No. 2298, dated June 24, 1998, recorded July 24, 1998 in Plat Book 174, Pages 75 - 76, Cobb County, Georgia land records, reference to said plat of survey and the record thereof being hereby made for a more complete description.

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EXHIBIT "D"

BYLAWS

OF

MILL GROVE HOMEOWNERS ASSOCIATION, INC.

Prepared By:  
Michael E. Leavey  
DOROUGH & DOROUGH, LLC  
Attorneys at Law  
Two Decatur TownCenter, Suite 520  
125 Clairemont Avenue  
Decatur, Georgia 30030-2551  
(404) 687-9977

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BYLAWS  
OF  
MILL GROVE HOMEOWNERS ASSOCIATION, INC.

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BYLAWS  
OF  
MILL GROVE HOMEOWNERS ASSOCIATION, INC.

Article 1  
Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Mill Grove 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 Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Mill Grove Subdivision (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 meaning given in the Georgia Property Owners' Association Act, O.C.G.A. §44-3-220, *et seq.* (the "Act") 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. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting at least twenty-one (21) days in advance of any annual or regularly scheduled meeting, and at least (7) seven days in advance of any other meeting and shall state the time, place and, for any special meeting, the purpose of such meeting. Such notice shall be delivered personally or sent by United States mail, postage prepaid, statutory overnight delivery, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Georgia Electronic Records and Signatures Act," to all members of record at such address or addresses as any of them may have designated, or, if no other address has been so designated, at the address of their respective Lots.

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 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 Total Association Vote 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 Without A Formal Meeting. In the Board's discretion, any action that may be taken by the Association members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a consent form or a ballot in writing or by electronic transmission to every member entitled to vote on the matter.

(a) Ballot. A 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. Approval by ballot in writing or by electronic transmission shall be valid only when the vote cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the approval vote equals or exceeds the amount of the vote that would be required to approve the matter at a meeting at which the total vote cast was the same as the amount of vote cast by ballot. All solicitations for votes by ballot in writing or by electronic transmission shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the Association in order to be counted. A ballot in writing or by electronic transmission may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by consent in writing or by electronic transmission shall be valid only when the vote represented by consent in writing or by electronic transmission equals or exceeds the requisite majority of the voting power for such action. Executed consents in writing or by electronic transmission shall be included in the minutes or filed with the Association's records. No consent in writing or by electronic transmission signed pursuant to the Georgia Nonprofit Corporation Code shall be valid unless: (1) the consenting member has been furnished the same material that, pursuant to the Georgia Nonprofit Corporation Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished. If an action of the members is approved by consent in writing or by electronic transmission hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

### 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. 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 designee, spouse or any co-Owner or Occupant of such Person's Lot.

3.2 Number of Directors. The Board shall consist of three (3) directors, who shall be elected as provided in Section 3.4 below.

3.3 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.

3.4 Election and Term of Office. The members shall elect the members of the Board of Directors at the first annual meeting of the Association following the adoption of these Bylaws. The three (3) candidates receiving the most votes shall be elected. The initial term of two (2) directors shall be fixed at two (2) years, and thereafter successors shall be elected to a term of two (2) years; the initial term of one (1) director shall be fixed at one (1) year, and thereafter successors shall be elected to a term of two (2) years. At annual meetings of the membership thereafter (or pursuant to Section 2.12 in lieu of a meeting), directors shall be elected to fill vacancies on the Board.

3.5 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, by a majority of the Total Association Vote 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.

3.6 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.

3.7 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.

3.8 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 at least two (2) 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.

3.9 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 time set for the meeting. Notices given by personal delivery, electronic transmission or telephone shall be given at least two (2) days before the day set for the meeting.

3.10 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.

3.11 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.

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

3.13 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.

3.14 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.

3.15 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.

3.16 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.

3.17 Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by 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 of 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 adopted by it, and bringing any proceedings which may be instituted on behalf of or against the members concerning the Association. Such enforcement power shall include, without limitation, the power to levy and collect fines as provided herein and in the Declaration in such amounts as from time to time the Board of Directors may deem proper in the circumstances, counting each day a violation continues after notice from the Board of Directors 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.

3.18 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. 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.

3.19 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 Thousand and No/100 Dollars (\$10,000.00) outstanding debt at one time.

3.20 Fining Procedure. The Board shall not impose a fine (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 by first-class or certified mail sent 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 from the date of the notice, that the fine will take effect;
- (2) that the violator may, within ten (10) days from the date of the notice, request a hearing 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 of the date of the notice.

(b) If a hearing is requested, 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 after the date of the hearing.

Notwithstanding anything herein to the contrary, if twenty-four (24) hours after notice under the Section is given the violation continues or thereafter occurs again within six (6) months of such notice, the Board may impose a fine in accordance with the notice, without further notice to the member.

## 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.

4.2 Election, Term of Office, and Vacancies. 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, 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. 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 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 advisory 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 committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation of the Association, the Declaration, these Bylaws or the Nonprofit Code.

## 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. *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. The Association, acting through the Board of Directors and without any further consent or action on the part of the members, may amend this Declaration for those specific purposes permitted under Georgia law, including, without limitation, if such amendment is necessary to bring any provision hereof into compliance with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* In addition, these Bylaws may be amended upon the affirmative vote, written consent, or any combination thereof, of Owners holding at least two-thirds (2/3) of the Total Association Vote. Amendments to these Bylaws shall become effective upon recordation unless a later effective date is specified therein.