

*Jay C. Stephenson*

Jay C. Stephenson  
Clerk of Superior Court Cobb Cty. Ga.

Return to:  
Walter P. Walker  
Beloin, Brown, Blum & Baer, L.L.C.  
2550 Heritage Court, Suite 200  
Atlanta, GA 30339

STATE OF GEORGIA  
COUNTY OF COBB

Please cross reference  
to Deed Book 3863, Page 418

e Book 3789 Page 236

Amendment to  
The Declaration of Covenants, Conditions, Restrictions and Easements for  
The Battle Forest Subdivision

This Amendment is made this 22nd day of April, 2008 by the Battle Forest Homeowners' Association, Inc. (the "Association") representing all owners ("Owners") of the property described herein.

Witnesseth:

Whereas the original developer (the "Developer") and the Owners recorded an Amended Outline of Protective Covenants concerning the subdivision known as Battle Forest, Unit I, being a subdivision of all those certain lots, tracts, or parcels of land situated, lying and being in Land Lot 329 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia as per plat of survey prepared by Gaskins Surveying Company dated November 9, 1985, and recorded in Plat Book 105, Page 19 of the Real Property Records of Cobb County, Georgia and the Amendment to the Outline of Protective Covenants being dated March 14, 1986 and recorded in Deed Book 3863, Pages 418-431 of the Real Property Records of Cobb County, Georgia ; and

Whereas the name of the original instrument was amended to be the Declaration of Covenants, Conditions, Restrictions and Easements for Battle Forest Subdivision (the "Declaration"); and

Whereas all lots have been sold by the Developer and all provisions of the Declaration conditioned upon the retention of unsold lots by Developer have been satisfied; and

Whereas the Owners are the owners of certain real property lying and being in Land Lot 329 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia and being known as Battle Forest Subdivision and being more particularly described on Exhibit "A" attached hereto and made a part hereof by reference; and

Whereas the subdivision is a residential property owners development; and

Whereas the Association and the Owners desire to further amend the Declaration in order that it more fully reflects their intentions and desires; and



Whereas the Association is a Georgia domestic, non-profit corporation: and

Whereas 75% of the Owners have affirmatively agreed in writing to amend the Declaration in accordance with the amendment procedures of Article IX, Section 7 of the Declaration and such written consents are retained as permanent records of the corporation;

Now, therefore, the Declaration is hereby amended as follows:

I.

The Declaration as amended March 14, 1986 and all its provisions are to remain in effect except as specifically amended herein or except as prohibited by law.

II.

The Association and the Owners, desiring the protections accorded by the Property Owners' Association Act (the "Act") O.C.G.A. 44-3-220, et seq. and as hereafter amended, hereby submit all the property (the "Property") of the Battle Forest Subdivision to the Act.

III.

The Bylaws of the Association as adopted in 1986 and as further amended in 1992 are attached hereto as Exhibit B and incorporated as part of the Declaration.

IV.

The body of Article 1, Definitions, Section 1. Architectural Control Committee of the Declaration is hereby replaced with:

The Architectural Control Committee shall consist of no less than three persons appointed annually by the Board of the Association, at least two members of the committee being a director of the Association and at least one member of the committee not being a director.

V.

The body of Article V, Covenant for Maintenance and Capital Improvement Assessments, Section 7, Date of Commencement of Annual Assessments of the Declaration is hereby stricken and replaced with:

The annual assessments provided for herein commenced as to all lots on April 1, 1986. The assessment year and due dates may be changed by the Board for the benefit of the Owners. The Board or its representative shall, upon request by an Owner, furnish a certificate setting forth the status of any assessments upon the Owner's lot. The Board, at its discretion, may require a reasonable charge for such certification.



## VI.

The body of Article VIII, General Covenants and Restrictions, Section 4, Re-subdivision of Property of the Declaration is hereby stricken and replaced with:

No lot may be split, divided or subdivided for sale, resale, transfer, gift, transfer or otherwise except that this provision shall not apply to the taking of property by eminent domain or the granting of utility easements.

## VII.

The body of Article VIII, General Covenants and Restrictions, Section 9, Signs of the Declaration is hereby stricken and replaced with the following:

(a) No signs visible from the exterior shall be installed, altered or maintained on any Lot, or on any portion of a Structure, except as follows:

(i) such signs as may be required by legal proceedings,

(ii) not more than one "For Sale" or "For Rent" sign, provided, however that said sign shall not exceed four square feet in area and shall be removed immediately upon the consummation of the transaction or the withdrawal of Owner's offer to sell or rent,

(iii) small directional signs for vehicular or pedestrian safety,

(iv) signs at the entrances to the subdivision or at the recreational facility, either placed by the Developer or by the Association, identifying and promoting the Subdivision.

(v) small signs, not exceeding ten inches in height and width or diameter, announcing the presence of a security system.

(vi) political signs, not exceeding four square feet in area, placed in the yard no more than 45 days prior to the applicable election and removed within two days afterwards.

(vii) the Board of Directors shall have the authority to adopt standards allowing the temporary use of signs to announce garage sales, birthdays, anniversaries, etc.

(b) No sign may be lighted other than the entrance signs for the Subdivision.

## VIII.

The first sentence of Article IX, General Provisions, Section 1. Enforcement paragraph (a) of the Declaration is stricken and replaced with:

The Association, through the Board of Directors or the Architectural Control Committee, or any Owner shall have the right to enforce, by proceedings at law or equity, all



restrictions, conditions, covenants, reservations, easements, liens and charges now or hereinafter imposed by the provisions of the Declaration.

XIV.

The body of Article VIII, General Covenants and Restrictions, Section 12, Recreational Equipment of the Declaration is hereby stricken and replaced with:

- (i) recreational equipment, other than basketball goals located on driveways at the front of Lots, may only be installed behind the back line of the house and must not be visible from the street abutting any such lot.
- (ii) an owner may place a basketball goal, either mobile or permanent, adjacent to a driveway, except that such goals may not be placed nearer than twenty feet to the street and, in regard to any circular driveway or any driveway that crosses in front of the home, such goals may not obstruct the sight-lines of the home when viewed from the center of the front line of the lot. All goals must be well maintained.

In Witness Whereof, the undersigned officers of the Battle Forest Homeowners' Association, Inc, hereby certify that the above amendment to the Declaration was duly adopted by an agreement executed by 75% of the Owners, whose signed consent is a part of the permanent records of the Association.

This 22 day of April, 2008.

Battle Forest Homeowners' Association, Inc.

By Charles Nunn (SEAL)  
Charles Nunn, President

By Julia Casey (SEAL)  
Julia Casey, Secretary

CORPORATE SEAL

Witness:

Deborah L. Conner

Sworn and subscribed to  
before me this 22 day of April, 2008

Notary Public

Notary Public, Cobb County, Georgia  
My Commission Expires August 1, 2009



## EXHIBIT "A"

TRACT IA:

All that tract or parcel of land lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per survey by John C. Gaskins, Georgia Registered Land Surveyor No. 2060, dated May 10, 1985, last revised June 24, 1985, and being more particularly described as follows:

BEGINNING at an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section; thence running south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, for a distance of 395.80 feet to an iron pin and corner; thence running north 89° 32' 01" west for a distance of 199.39 feet to a point and corner; thence running south 00° 27' 59" west for a distance of 67.72 feet to a point; thence running south 45° 27' 59" west for a distance of 70.71 feet to a point; thence running north 89° 32' 01" west for a distance of 662.45 feet to a 36 inch oak tree; thence running north 89° 29' 33" west for a distance of 392.82 feet to an iron pin and corner; thence running north 01° 24' 10" west for a distance of 400.52 feet to an iron pin; thence running north 01° 50' 00" west for a distance of 110.0 feet to an iron pin located on the northerly land lot line of Land Lot 329, said district and section; thence running south 89° 54' 45" east as measured along the northerly land lot line of Land Lot 329, said district and section, for a distance of 403.51 feet to an iron pin; thence running south 89° 33' 20" east as measured along the northerly land lot line of Land Lot 329, said district and section, for a distance of 916.59 feet to an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section, and the point of beginning. This tract contains 14.88 acres, and is denominated as Tract IA of the referenced plat of survey.

TRACT IB:

All that tract or parcel of land lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per survey by John C. Gaskins, Georgia Registered Land Surveyor No. 2060, dated May 10, 1985, last revised June 24, 1985, and being more particularly described as follows:

BEGINNING at an iron pin located on the easterly land lot line of Land Lot 329, said district and section, which iron pin is located south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, a distance of 395.80 feet from an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section; thence running south 89° 56' 54" west for a distance of 199.39 feet to a point and corner; thence running south 00° 27' 59" west for a distance of 67.72 feet to a point; thence running south 45° 27' 59" west for a distance of 70.71 feet to a point; thence running north 89° 32' 01" west for a distance of 662.45 feet to a 36 inch oak tree; thence running south 00° 33' 00" east for a distance of 176.0 feet to an iron pin and corner; running thence south 89° 32' 01" east for a distance of 910.24 feet to an iron pin located on the easterly land lot line of Land Lot 329, said district and section; thence running north 00° 10' 11" east for a distance of 293.70 feet to an iron pin located on the easterly land lot line of Land Lot 329, said district and section, and the point of beginning. Said tract contains 4.25 acres, and is denominated as Tract IB on the referenced plat of survey.

JOHN H. MOORE  
Attorney  
274 Washington Avenue  
Marietta, Georgia 30060  
404/426-1489



TRACT II:

All that tract or parcel of land lying and being in Land Lot 329 of the 20th District, 2nd Section, Cobb County, Georgia, as per survey by John C. Gaskins, Georgia Registered Land Surveyor No. 2060, dated May 10, 1985, revised May 17, 1985, and being more particularly described as follows:

BEGINNING at an iron pin located on the easterly land lot line of Land Lot 329, said district and section, which iron pin is located south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, a distance of 689.50 feet from an iron pin located at the common corner of Land Lots 318, 319, 328, and 329, said district and section; thence running south 00° 10' 11" west as measured along the easterly land lot line of Land Lot 329, said district and section, for a distance of 634.23 feet to an iron pin and corner; thence running south 89° 56' 54" west for a distance of 1305.0 feet to an iron pin and corner; thence running south 01° 22' 14" west for a distance of 13.17 feet to an iron pin; thence running south 62° 09' 06" west for a distance of 107.98 feet to an iron pin; thence running south 77° 20' 37" west for a distance of 85.68 feet to an iron pin; thence running north 66° 11' 00" west for a distance of 191.85 feet to a steel rod located on the southeasterly side of Ridgeway Road, having a right-of-way of 50 feet; thence running north 19° 58' 32" east as measured along the southeasterly side of Ridgeway Road for a distance of 77.51 feet to an iron pin; thence running north 19° 06' 40" east as measured along the southeasterly side of Ridgeway Road for a distance of 66.08 feet to an iron pin; thence running north 17° 26' 54" east as measured along the southeasterly side of Ridgeway Road for a distance of 95.17 feet to an iron pin; thence running north 09° 41' 43" east as measured along the southeasterly side of Ridgeway Road for a distance of 218.70 feet to an iron pin and corner; thence running north 89° 54' 34" east for a distance of 199.79 feet to an iron pin and corner; thence running north 06° 44' 18" west for a distance of 201.27 feet to an iron pin and corner; thence running north 89° 33' 48" east for a distance of 461.93 feet to an iron pin; thence running south 89° 32' 01" east for a distance of 910.24 feet to an iron pin located on the easterly land lot line of Land Lot 329, said district and section, and the point of beginning. This tract contains 22.66 acres.

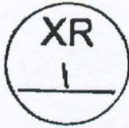
JOHN H. MOORE  
Attorney  
224 Washington Avenue  
Marietta, Georgia 30060  
(404) 428-1488

Exhibit "A"  
Page 12

BOOK 3863 PAGE 435

228





Deed Book 14858 Pg 6354  
Filed and Recorded Jun-14-2011 01:27pm  
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*Jay C. Stephenson*

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Clerk of Superior Court Cobb Cty. Ga.

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Walter P. Walker  
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2550 Heritage Court, Suite 200  
Atlanta, GA 30339

STATE OF GEORGIA  
COUNTY OF COBB

Please cross reference to:  
Deed Book 3863, Page 418  
Deed Book 14606, Page 398

RR

Amendment to  
The Declaration of Covenants, Conditions, Restrictions and Easements for  
The Battle Forest Subdivision

This Amendment is made this 4th day of June, 2011 by the Battle Forest Homeowners' Association, Inc. (the "Association") representing all owners ("Owners") of the property described herein.

Witnesseth:

Whereas the original developer (the "Developer") and the Owners recorded an Amended Outline of Protective Covenants concerning the subdivision known as Battle Forest, Unit 1, being a subdivision of all those certain lots, tracts, or parcels of land situated, lying and being in Land Lot 329 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia as per plat of survey prepared by Gaskins Surveying Company dated November 9, 1985, and recorded in Plat Book 105, Page 19 of the Real Property Records of Cobb County, Georgia and the Amendment to the Outline of Protective Covenants being dated March 14, 1986 and recorded in Deed Book 3863, Pages 418-431 of the Real Property Records of Cobb County, Georgia ;

Whereas the name of the original instrument was amended to be the Declaration of Covenants, Conditions, Restrictions and Easements for Battle Forest Subdivision (the original instrument and all further amendments being together referred to as "Declaration");

Whereas the Declaration was amended on the 22<sup>nd</sup> of April, 2008 as recorded in Deed Book 14606, Page 398;

Whereas all lots have been sold by the Developer and all provisions of the Declaration conditioned upon the retention of unsold lots by Developer have been satisfied;

Whereas the Owners are the owners of certain real property lying and being in Land Lot 329 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia and being known as Battle Forest Subdivision and being more particularly described on Exhibit "A" attached hereto and made a part hereof by reference;



Whereas the subdivision is a residential property owners development;

Whereas the Association and the Owners desire to further amend the Declaration in order that it more fully reflects their intentions and desires;

Whereas the Association is a Georgia domestic, non-profit corporation: and

Whereas 75% of the Owners have affirmatively agreed in writing to amend the Declaration in accordance with the amendment procedures of Article IX, Section 7 of the Declaration and such written consents are retained as permanent records of the corporation;

Now, therefore, the Declaration as previously amended is hereby amended as follows:

I.

The Declaration and all its provisions are to remain in effect except as specifically amended herein or except as prohibited by law.

II.

That Article VIII, Section 14 of the Declaration regarding Building Location is stricken in its entirety and replaced with the following:

No building shall be located on any lot nearer to the front lot line or nearer the side street line than the minimum building setback shown on the recorded plat. In any event, no building shall be located on any lot nearer than 35 feet to the front lot line or nearer than 35 feet to any side street line. No building shall be located nearer than 10 feet to an interior lot line or more from the minimum building setback line. No dwelling shall be located on an interior lot nearer than 30 feet to the rear lot line. For the purposes of this covenant, eaves, steps, carport and open porches shall not be considered as a part of the building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. Notwithstanding any other restriction related to side street line setback as stated in these Covenants, the Board of Directors, by an affirmative vote of a majority of the Directors at a duly called Directors' meeting, may agree to allow the construction of a garage within 25 feet of a side street line on a corner lot where 1) the resident applying for a variance from the 35 foot setback requirement claims a hardship relating to access of the main floor of the dwelling because of a medical condition, 2) an existing garage or carport on the lot does not provide direct access into the main floor of the home and 3) such a proposed garage cannot reasonably be built in conformance with a 35 foot setback from the street side line. For the purpose of determining whether or not to grant such a variance, the Board may, at its discretion, require the applicant to provide evidence supporting the claimed hardship.

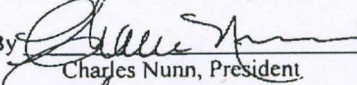
III.

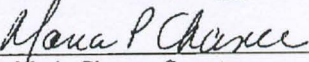


In Witness Whereof, the undersigned officers of the Battle Forest Homeowners' Association, Inc, hereby certify that the above amendment to the Declaration was duly adopted by an agreement executed by 75% of the Owners, whose signed consent is a part of the permanent records of the Association.

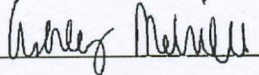
This 4<sup>th</sup> day of June, 2011.

Battle Forest Homeowners' Association, Inc.

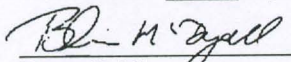
By  (SEAL)  
Charles Nunn, President

By  (SEAL)  
Maria Chance, Secretary

CORPORATE SEAL

Witness: 

Sworn and subscribed to  
before me this 4<sup>th</sup> day of June, 2011

  
Notary Public





BY-LAWS  
OF  
BATTLE FOREST HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Registered Office

BATTLE FOREST HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation (the "Association"), shall have at all times within the State of Georgia a registered office and a registered agent. The Association may have other offices within the State of Georgia as may be determined from time to time by its Board of Directors (the "Board").

ARTICLE II

Membership in Association

2.1 Eligibility. The Association shall initially have three classes of membership consisting of the owners of the lots located on the property described in Exhibit "A" and any property otherwise dedicated to the Declaration of Covenants, Conditions, Restrictions and Easements for Battle Forest Subdivision, as amended, which Declaration is recorded in the Office of the Clerk of the Superior Court of Cobb County, Georgia at Deed Book 3789, Pages 236-244, and which Amendment is recorded at Deed Book 3863, Pages 418-435. These terms and others are used in these By-Laws as they are defined in the Declaration. Class A members shall be all owners of lots, with the exception of the Developer. The Class B member is voluntary and includes the right to the use and enjoyment of the swimming pool, tennis courts and ancillary facilities. Class B members are also Class A members and entitled to all rights and privileges thereof. The Class C member shall be the Developer.

2.2 Succession. The membership of each lot owner shall automatically terminate when he ceases to be a lot owner; and upon the conveyance, transfer or other disposition of a lot, said lot owner's membership in the Association shall automatically be transferred to the new lot owner.

2.3 Regular Meetings. The lot owners shall annually hold a regular meeting, one of the purposes of which shall be to elect Directors. The first regular annual meeting of lot owners may be held, subject to the terms hereof, on any date, at the option of the Board, within one year after the incorporation of the Association. Subsequent to the first meeting, there shall



be a regular annual meeting of lot owners held each year within thirty (30) days of the anniversary of the first regular annual meeting. All such meetings of lot owners shall be held at such place in Cobb County, Georgia, and at such time as is specified in the written notice of such meeting. Subject to the terms of the Declaration, such notice shall be delivered to all lot owners at least ten (10) days and not more than sixty (60) days prior to the date of such meeting. Such notice shall also state the purpose of such meeting.

2.4 Special meetings. Special meetings of the lot owners may be called by the President or by a majority of the Directors, or by Fifty (50%) Percent or more of the lot owners. Subject to the terms of the Declaration, special meetings shall be called by delivering written notice to all lot owners not less than ten (10) days nor more than thirty (30) days prior to the date of said meeting, stating the date, time, place and purpose of the special meeting.

2.5 Delivery of Notice of Meetings. Notices of meetings shall be delivered by or at the direction of the Secretary of the Association and may be delivered either personally or by mail to a lot owner at the address given to the Board by said lot owner for such purpose, or to the lot owner's lot, if no address for such purpose has been given to the Board. Upon request, any holder of a first mortgage shall be entitled to written notice of all meetings and shall be permitted to designate a representative to attend and observe any such meeting.

2.6 Waiver of Notice. Waiver of notice of meeting of the lot owners shall be deemed the equivalent of proper notice. Any lot owner may, in writing, waive notice of any meeting of the lot owners, either before or after such meeting. Attendance at a meeting by a lot owner, whether in person or by proxy, shall be deemed waiver by such lot owner of notice of the time, date and place thereof unless such lot owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

2.7 Voting. Each lot owner shall be entitled to vote as set forth in the Declaration, which vote may be cast by the lot owner, the lot owner's spouse or by a lawful proxy as provided below. When more than one person owns a lot, the vote for such lot shall be exercised as they between or among themselves determine, but in no event shall more than one vote be cast with respect to such lot. In the event of disagreement among such persons and an attempt by two or more of them to cast such vote,



then no vote may be cast regarding the ownership of that particular lot. The Developer may exercise the voting rights with respect to lots owned by it.

The following matters shall be subject to the affirmative vote of not less than seventy-five (75%) percent of the votes of lot owners at a meeting duly called for that purpose: (a) the merger or consolidation of the Association; (b) the sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the property and assets of the Association; and (c) the purchase or sale of land or lots on behalf of all lot owners.

2.8 Voting List. A list of names and addresses of lot owners entitled to vote shall be maintained at the registered office of the Association.

2.9 Quorum. Subject to the terms of the Declaration, a quorum of lot owners for any meeting shall be deemed present throughout such meeting if lot owners represented in person or by proxy and holding more than one-third (1/3) of the votes entitled to be cast at such meeting are present at the beginning of such meeting.

2.10 Adjournment. Any meeting of the lot owners may be adjourned from time to time for periods not exceeding forty-eight (48) hours by vote of the lot owners holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

2.11 Proxy. Any lot owner entitled to vote may do so by written proxy duly executed by the lot owner setting forth the meeting at which the proxy is valid. To be valid, a proxy must be filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies must be dated and may be revoked only by written notice delivered to the Association. Presence in person at the meeting for which a proxy is given shall automatically revoke the proxy.

2.12 Consents. Any action which may be taken by a vote of the lot owners may also be taken by written consent signed by all lot owners.

2.13 Rules of the Meeting. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and lot owners.



## ARTICLE III

Board of Directors

3.1 Composition. The affairs of the Association shall be governed by the Board. The Board shall be composed of at least three (3) but no more than twelve (12) persons. The Directors shall be owners of lots or spouses of such owners; provided, however, that no owner and his or her spouse may serve on the Board at the same time. Notwithstanding the above, so long as there shall be a Class C member of the Association, the Directors need not be owners of lots. The precise number of Directors shall be fixed from time to time by resolution of the Board.

3.2 Term of Office. The Directors shall be elected as provided in Section 3.7 of this Article, except as designated otherwise herein. Each Director, except in case of death, resignation, retirement, disqualification or removal, shall serve for a period of three (3) years and thereafter until his successor shall have been elected and qualified, except that upon the first election of Directors one-third (1/3) of the Directors shall be elected for a one (1) year term, one-third (1/3) of the Directors shall be elected for a two (2) year term, and one-third (1/3) of the Directors shall be elected for a three (3) year term. Thereafter, in the event that additional Directors are added to the Board of Directors, any additions to the extent possible shall be done based upon terms so that (wherever possible) no more than one-third (1/3) of the Directors shall conclude their term of service at the end of each election period.

3.3 Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the Directors may be removed with or without cause by a majority vote of the members of the Association, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the members shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

3.4 Vacancies. Vacancies in the Board caused by any reason, including the addition of a new Director or Directors, but excluding the removal of a Director by vote of the Association, shall be filled by a vote of the majority of the remaining Directors, even though less than a quorum, at any meeting of the Board for the remainder of the term of the Director being replaced. Said Director shall serve until a successor shall be elected at the next annual meeting of the Association to fill the unexpired portion of the term.



3.5 Compensation. Directors shall not be compensated unless the members of the Association so authorize by an affirmative vote of more than fifty (50%) percent of the votes of lot owners at a meeting duly called for that purpose.

3.6 Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the President to serve from the close of one annual meeting to the close of the succeeding annual meeting. Such appointment shall be announced at the annual meeting. The nominating committee may nominate any number of qualified individuals, but not less than the number of Directors to be elected. The nominations shall be made at least twenty-one (21) days prior to the annual meeting, and a brief statement about the qualifications of each individual so nominated shall be included with the notice of the annual meeting. Nominations shall also be allowed from the floor at the meeting. Failure to comply with the provisions hereof shall in no way invalidate the election of Directors so nominated.

3.7 Elections. Directors to be elected by the members shall be elected, from among those nominated, by a majority vote at the annual meeting, a quorum being present.

3.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every three (3) months. The Board shall meet within ten (10) days after each annual meeting of members.

3.9 Special meetings. Special meetings of the Board may be called by the President on three (3) days notice to each Director given by mail, in person, or by telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President, Secretary or Treasurer in like manner and on like notice on the written request of at least two (2) Directors.

3.10 Waiver of Notice. Any Director may, in writing, waive notice of any meeting of the Board, either before or after such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all Directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

3.11 Quorum. A quorum of Directors shall be deemed present throughout any Board meeting at which a majority of the Directors are present at the beginning of such meeting.



3.12 Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. Roberts Rules of Order (latest edition) shall govern the conduct of the meetings of the Board when not in conflict with the Declaration or these By-Laws.

3.13 Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if all the Directors consent in writing to such action. Such written consent or consents shall be filed with the minutes of the Board.

3.14 Powers and Duties. The Board shall exercise for the Association all powers, duties and authority vested therein by the Declaration or these By-Laws, except for such powers, duties and authority reserved thereby to the members of the Association, Developer or the Amenities Developer. The Board shall have the following powers and and duties:

(a) to elect and remove the officers of the Association as hereinafter provided;

(b) to administer the affairs of the Association;

(c) to engage the services of an agent (hereinafter sometimes referred to as the "Managing Agent") to maintain, repair, replace, administer and operate the Common Area or any part thereof for all of the lot owners, upon such terms and for such compensation as the Board may approve, including a Managing Agent which is affiliated with one or more Directors, or the Developer, or the Amenities Developer;

(d) to administer, manage and operate the Common Area, and to formulate policies therefor;

(e) to adopt rules and regulations, with written notice thereof to all lot owners, governing the details of the administration, management, operation and use of the Common Area, and to amend such rules and regulations from time to time;

(f) to provide for the operation, care, upkeep, maintenance, repair, replacement and improvement of the Common Area and payments therefor, and to approve payment vouchers or to delegate such approval to the officers of the Association or the Managing Agent;

(g) to have access to each lot from time to time as may be necessary for the maintenance, repair or replacement of the Common Area therein or accessible therefrom, or for



making emergency repairs therein necessary to prevent damage to the Common Area or to one or more other lots;

(h) to obtain adequate and appropriate kinds of insurance in furtherance of the duties of the Association.

(i) To engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Area, and to delegate any such powers to a Managing Agent (and any employees or agents of a Managing Agent);

(j) to appoint committees and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(k) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(l) to estimate the amount of, prepare, adopt and distribute the budget for the Association not less frequently than annually, to provide the manner of assessing, levying on and collecting from the lot owners the general and special assessments, and to levy fines against one or more occupants in accordance with the Declaration;

(m) to keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Common Area;

(n) to enter into agreements or arrangements for premises suitable for use as apartments for maintenance or management personnel, upon such terms as the Board may approve;

(o) to bid and purchase, for and on behalf of the Association, any lot, or interest therein, at a sale pursuant to a mortgage foreclosure, a foreclosure of the lien for assessments, special assessments or both, or an order or direction of a court, or at any other involuntary sale, upon the affirmative vote of not less than seventy-five (75%) percent of the votes of lot owners at a meeting duly called for that purpose, provided that the lot owners shall set forth a maximum price that the Board or its duly authorized agent may bid and pay for such lot or interest therein;



(p) to make such mortgage arrangements and special assessments proportionately among the respective lot owners, and other such financing arrangements as the Board may deem desirable, in order to close and consummate the purchase or lease of a lot, or interest therein, by the Association; provided, however, that no such financing arrangement shall be secured by an encumbrance on any interest in the Property other than the lot, or interest therein, to be purchased or leased;

(q) to act in a representative capacity in relation to matters involving the Common Area or more than one lot, on behalf of the lot owners, as their interests may appear;

(r) to enforce by legal means the provisions of the Declaration and these By-Laws with respect to the Property;

(s) to renew, extend or compromise indebtedness owed to or by the Association;

(t) at its discretion, to authorize occupants to use the Common Area for private parties and gatherings; and, at its discretion, to impose reasonable charges for such private use;

(u) unless otherwise provided herein or in the Declaration, to comply with the instructions of the lot owners as expressed in a resolution duly adopted at any annual or special meeting of the Association; and

(v) in addition to, and in furtherance of, the powers referred to in these By-Laws, the Association shall (i) have all the powers permitted to be exercised by a non-profit corporation under the Georgia Non-Profit Corporation Code, as now in force or hereafter amended, and (ii) have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Association is organized, and to do every other act not inconsistent with law which may be appropriate to promote and attain the purposes set forth in the Declaration and these By-Laws.

3.15 Non-delegation. Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Association, or to the officers of the Association any powers or duties which, by law, have been delegated to the lot owners.



## ARTICLE IV

Officers

4.1 Designation. At each regular annual meeting of the Board after the lot owners elect the Board, the Directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a President, who shall be a Director and who shall preside over the meetings of the Board and of the lot owners, and who shall be the chief executive officer of the Association;

(b) a Secretary, who shall keep the minutes of all meetings of the Board and of the lot owners, and shall be designated as the officer to mail and receive all notices served by or upon the Board or the Association and execute amendments to the Declaration (including the Plat) and these By-Laws, and shall in general perform all the duties incident to the office of Secretary, and may be a representative of the Managing Agent;

(c) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; provided, however, that the duties of the Treasurer may be performed by an employee or independent contractor retained by the Board; and

(d) such additional officers as the Board may see fit to elect.

Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Powers. The respective officers shall have the general powers usually vested in such officers; provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

4.3 Term of Office. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified.

4.4 Vacancies. Vacancies in any office shall be filled by the Board by a majority vote at a special meeting of said Board. Any officer so elected by the Board to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.



4.5 Compensation. The officers shall receive no compensation for their services as officers unless the members of the Association so authorize by an affirmative vote of more than fifty (50%) percent of the votes of lot owners at a meeting duly called for that purpose.

4.6 Removal. Any officer elected by the Board may be removed from office, either with or without cause, by a majority vote of the Board. (See Amendment 4.7)

## ARTICLE V

### Contractual Powers

No contract or other transaction between the Association and one or more of its Directors or between the Association and any corporation, firm or association in which one or more of the Directors are also directors, or are financially interested, is void or voidable because such Director or Directors are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because the vote or votes of such Director or Directors are counted toward such authorization or approval, if the circumstances specified in either of the following subparagraphs exists:

(a) the fact of the common directorship or financial interest is disclosed or known to the Board or committee and noted in the minutes thereof, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose, without counting the vote or votes of such director or directors; or

(b) the contract or transaction is just and reasonable as to the Association at the time it is authorized or approved.

Such common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies such a contract or transaction.

## ARTICLE VI

### Indemnification

6.1 General. The Association shall indemnify and hold harmless each of its Directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association,



AMENDMENT ARTICLE IV

4.7 Removal from Board

Any elected member of the Board may be removed by a majority vote of the Board for the following reasons:

- a) Makes little or no effort to attend Board Meetings.  
(misses at least 50%)
- b) Quits attending meetings. (misses 3 or more meetings in row)
- c) Board member must be given notification before any action may be taken for removal.
- d) Vacancy to be filled according to Article IV, 4.4

*Amended 4/26/92  
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the Board, and the Developer against all contractual and other liabilities to others arising out of contracts made by, or other acts of, such Directors, Board, officers, committee members, or Developer, on behalf of the lot owners, or arising out of their status as Directors, Board, officers, committee members, or Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including but not limited to counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director, officer, Board, committee member or Developer may be involved by virtue of such persons being or having been such Director, officer, Board, committee member or Developer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member, or Developer; or (b) any matter settled or compromised, unless in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such Director, officer, Board, committee member or Developer.

6.2 Success on Merits. To the extent that the Board, Developer, a Director, officer of the Association, or member of any committee appointed pursuant to these By-Laws has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 6.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

6.3 Expenses in Advance of Disposition. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized in the specific case, upon receipt of an undertaking by or on behalf of the Director, officer, Board, committee member or Developer to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.



6.4 Non-Exclusive Remedy. The indemnification provided by this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer, a Director, an officer of the Association, or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, personal representatives, successors and assigns of such person or entity.

## ARTICLE VII

### Use Restriction and Rule Making

7.1 Authority and Enforcement. The Property shall be used only for those uses and purposes set out in the Declaration. The Board shall have the authority to make and to enforce reasonable rules and regulations governing the conduct, use and enjoyment of Lots and the Common Area, provided that copies of all such rules and regulations be furnished to all lot owners. The Board shall have the power to impose reasonable fines which shall constitute a lien upon the lot and to suspend an owner's right to vote or to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws or any rules and regulations duly adopted hereunder.

7.2 Procedure. The Board shall not impose a fine, suspend a member's right to vote, or infringe upon any other rights of a member or other occupant for violation of rules unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period, not less than ten (10) days, during which the violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing, if the violation is not continuing.

(b) Notice. Within twelve months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice of a hearing to be held by the Board in session. The notice shall contain: (i) the



nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statement, evidence and witnesses on his or her behalf; and (iv) the proposed sanction to be imposed.

(c) Hearing. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or Director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

## ARTICLE VIII

### Amendments

These By-Laws may be amended, modified or rescinded, from time to time, in the following manner:

8.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

8.2 Adoption. These By-Laws shall not be amended unless the amendment is approved by a majority vote of those members of each class of membership of the Association who are present in person or by proxy and voting at a meeting of members duly held in accordance with the provisions of these By-laws.

8.3 Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer, or any mortgagee without the prior written consent of the Developer, and/or said mortgagee(s), as the case may be. No amendment that is in conflict with the Articles of the Association or the Declaration shall be adopted.



## ARTICLE IX

Miscellaneous

9.1 Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

(a) If to a lot owner, at the address which the lot owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the lot of such owner; or

(b) If to the Association, the Board or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the lot owners pursuant to this Paragraph.

9.2 Severability. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

9.3 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision thereof.

9.4 Gender and Grammar. The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

9.5 Fiscal Year. The fiscal year shall be set by resolution of the Board.

9.6 Audit. An audit of the accounts of the Association shall be made annually as a common expense by a public accountant; and a copy of the report shall be furnished to each member who requests a copy in writing. Upon written request of any holder of a first mortgage, such holder shall be entitled to receive a copy of the annual audited financial statement within ninety (90) days after the end of each fiscal year. (See Amendment 9.6)

9.7 Mortgagees' Notice. A first mortgagee, upon written request, will be entitled to written notification from the Association of any default by an individual lot owner, who is



the mortgagee's mortgagor, of any obligation arising from the Declaration not cured within thirty (30) days.

9.8 Conflicts. In the event of conflicts between the Declaration and these By-Laws, the Declaration shall control.