

EXHIBIT "B"

BYLAWS

OF

SKYLAND BROOKHAVEN TOWNHOME ASSOCIATION, INC.



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Atlanta, Georgia 30326
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BYLAWS

OF

SKYLAND BROOKHAVEN TOWNHOME ASSOCIATION, INC.

ARTICLE 1. GENERAL

Section 1.1. Name and Applicability. The name of the corporation is Skyland Brookhaven Townhome Association, Inc. ("Association"), a Georgia nonprofit corporation organized in accordance with the Association's Articles of Incorporation filed with the Georgia Secretary of State (as may be amended, the "Articles of Incorporation"), and the Declaration of Covenants, Restrictions and Easements for Skyland Brookhaven recorded in the DeKalb County, Georgia land records (as may be amended, the "Declaration").

Section 1.2. Definitions. The term "Georgia Nonprofit Corporate Code" as used herein shall mean the Georgia Nonprofit Corporation Code, O.C.G.A. 14-3-101, *et seq.*, as amended. The other capitalized terms used herein that are not defined herein shall have the meanings specified in the Declaration. All terms not defined herein or in the Declaration shall have their generally accepted meanings.

Section 1.3. Membership. There is one (1) class of Association membership. An Owner of a Unit shall automatically become a "Member" of the Association upon taking title to the Unit and shall remain a Member for the entire period of ownership. As may be more fully provided below, an Owner's spouse or Domestic Partner may exercise the powers and privileges of the Member. If title to a Unit is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) equal vote per Unit. Membership does not 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. Membership shall be appurtenant to the Unit and shall be transferred automatically by conveyance of that Unit and may be transferred only in connection with the transfer of title.

Section 1.4. Entity Members. In the event an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, representative, or other designated agent of such entity shall be eligible to represent such entity in the affairs of the Association, including, without limitation, serving on the Board of Directors of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Member, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy shall be filled in accordance with these Bylaws.

Section 1.5. Voting. Each Unit shall be entitled to one (1) equal vote, which vote may be cast by the Member, the Member's spouse or Domestic Partner, or by a lawful proxy as provided below. When more than one (1) Person owns a Unit, the vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Unit. If only one (1) co-owner attempts to cast the vote for a Unit, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Unit. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Member shall be eligible to vote, either in person or by proxy, or to act as a proxy for any other Member if that Member is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Member has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the

voting rights of a Member have been suspended, that Member shall not be counted as an eligible vote for purposes of establishing a majority or a quorum.

Section 1.6. Majority. As used in these Bylaws, the term “majority” shall mean those votes, Members, or other group as the context may indicate totaling more than fifty percent (50%) of the total number of eligible votes, Members, or other group, respectively. Unless otherwise specifically stated, the words “majority vote” means more than fifty percent (50%) of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

Section 1.7. Purpose. The Association shall have the responsibility of administering the Community, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Area of Common Responsibility and performing all of the other acts that may be required to be performed by the Association pursuant to the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Declaration or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

Section 1.8. Electronic Documents and Electronic Signatures. All Electronic Documents and Electronic Signatures (as such terms are defined in the Georgia Electronic Records and Signatures Act, O.C.G.A. 10-12-1, *et seq.*) shall be governed by the Georgia Electronic Records and Signatures Act.

(a) Electronic Documents. Whenever these Bylaws require that a document, record or instrument be “written” or “in writing,” the requirement is deemed satisfied by an Electronic Document.

(b) Electronic Signatures. Whenever these Bylaws require a signature, an Electronic Signature satisfies that requirement only if: (i) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (ii) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) Verification and Liability for Falsification. The Board may require reasonable verification of any Electronic Signature or Electronic Document. Pending verification, the Board may refuse to accept any Electronic Signature or Electronic Document that, in the Board’s sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any Member or any other Person for accepting or acting in reliance upon an Electronic Signature or Electronic Document that the Board reasonably believes to be authentic. Any Member or Person who negligently, recklessly or intentionally submits any falsified Electronic Document or an unauthorized Electronic Signature shall fully indemnify the Association for actual damages, reasonable attorneys’ fees and expenses that are incurred as a result of such acts.

ARTICLE 2. MEETINGS OF MEMBERS

Section 2.1. Annual Meetings. The regular annual meeting of the Members shall be held during the 60-day period immediately preceding the last day of each fiscal year, with the date, hour, and place to be set by the Board of Directors. No annual meeting of the Association shall be set on a legal holiday. At the annual meeting, comprehensive reports of the affairs, finances, and budget projections of the Association shall be made to the Members.

Section 2.2. Special Meetings. Special meetings of the Members may be called for any purpose at any time by the President or Secretary, by request of any two (2) members of the Board of Directors, or upon written petition of Members holding at least twenty-five percent (25%) of the Total

Association Vote. Any such written petition by the Members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of Members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then call a special meeting for the purpose stated in the petition, and the Secretary shall send, within thirty (30) days after the date the petition is submitted to the Secretary, notice of the meeting in accordance with these Bylaws. If notice is not given within such time period, any person signing the petition may set the time and place of the meeting and give notice of the meeting in accordance with these Bylaws. Only those matters that are within the purpose or purposes described in the meeting notice may be conducted at the special meeting unless objection thereto is waived as set forth below.

Section 2.3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to the record Owner of each Unit or to the Units a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice shall be delivered personally, sent by United States mail, postage prepaid, statutory overnight delivery, or issued electronically in accordance with the Georgia Nonprofit Corporate Code to all Members at such address or addresses as any of them may have designated in writing to the Secretary or, if no other address has been so designated, at the address of their respective Units. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 2.4. Waiver of Notice. A Member may, in writing or by electronic transmission, waive notice of any meeting of the Members, either before or after such meeting. A Member's attendance at a meeting (in person or by proxy) waives objection to lack of notice or defective notice of the meeting unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting. A Member's attendance at a meeting further waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter when it is presented.

Section 2.5. Quorum. A quorum is composed of those Members attending a meeting or voting on a matter in person or by proxy, provided that, unless twenty percent (20%) or more of the Total Association Vote is present in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of Members are those matters that are described in the meeting notice. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is concluded and shall not need to be reestablished. Unless the Declaration, the Georgia Nonprofit Corporate Code, the Articles of Incorporation or these Bylaws require a greater vote, if a quorum is present, the affirmative vote of a majority of the votes cast is the act of the Members.

Section 2.6. Adjournment. Any meeting of the Members may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Members holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 2.7. Proxy. Any Member entitled to vote may do so by written proxy duly executed by the Member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, U.S. mail, facsimile transmission, or by an electronic transmission valid under the Georgia Nonprofit Corporate Code to any Board member or the property manager. Proxies may be revoked only by written notice delivered to the Secretary, except that: (a) the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting; and (b) a later dated proxy shall automatically be deemed to invalidate any previously given proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 2.8. Action Taken Without a Meeting. In the Board's discretion, any action that may be taken by the Members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every Member entitled to vote on the matter. The Board may deliver ballots and consent forms by personal delivery, U.S. Mail, facsimile transmission, e-mail, or other electronic transmission. Members shall deliver their vote by ballot or consent form by whatever means is specified by the Board.

(a) **Ballot.** A written ballot shall set forth each proposed action, and provide an opportunity to vote for or against each proposed action. Approval by ballot pursuant hereto shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and (iii) specify the time by which a ballot must be received by the Board in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) **Written Consent.** Approval by written consent shall be valid only when the number of written consents setting forth the actions taken is received and equals or exceeds the requisite majority of the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant, if required. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the Members is approved by written consent 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.

Section 2.9. Membership List. After fixing a record date for a meeting, the Association shall prepare an alphabetical list of the names of all Members who are entitled to notice of the meeting. The list must show the address of each Member entitled to vote at the meeting. The list of Members must be available for inspection by any Member for the purpose of communication with other Members concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, as provided further in the Georgia Nonprofit Corporate Code. This list shall not be used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held for the Association; nor shall the list be used for commercial purposes, sold to or purchased by any Person.

Section 2.10. Order of Business. The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all membership meetings. The Board of Directors may establish rules of conduct and the order of business for all membership meetings. When not in conflict with the Declaration, these Bylaws, the Articles of Incorporation or meeting procedures adopted by the Board of Directors, Robert's Rule of Order (latest editions) shall govern all membership meetings. The Board may order the removal of anyone attending a membership meeting who, in the opinion of the Board disrupts the conduct of business at such meeting.

ARTICLE 3. BOARD OF DIRECTORS

Section 3.1. Composition and Eligibility. The affairs of the Association shall be governed by a Board of Directors. Except for directors appointed by the Declarant hereunder, the directors shall be Members or spouses or Domestic Partners of such Members; provided, however, no Member and his or her spouse or Domestic Partner may serve on the Board at the same time, and no co-owners may serve on the Board at the same time. No persons shall be eligible to be elected to or continue to serve on the Board of Directors if they are shown on the books and records of the Association to be more than thirty (30) days delinquent in the payment of any assessment or charge by the Association.

Section 3.2. Directors Appointed by the Declarant. Notwithstanding anything to the contrary herein, the Declarant shall have the exclusive right to appoint and remove a member or members of the Board of Directors, with or without cause, until such time as the earlier of the following dates shall occur: (a) the date which the Declarant may so designate by notice in a writing delivered to the Association, (b) the date on which one hundred (100%) percent of the Units planned by the Declarant to be a part of the Community are Improved Units (as such term is defined in the Declaration), or (c) ten (10) years from the Effective Date of the Declaration. The period of time during which the Declarant has the right to appoint or remove directors of the Association is herein referred to as the "Declarant Control Period." The directors appointed by the Declarant need not be Members or residents of the Community.

Section 3.3. Number of Directors and Term of Office. During the Declarant Control Period, the Board shall consist of at least one (1) but not more than three (3) directors, the exact number of which shall be determined by Declarant from time to time. After termination of the Declarant Control Period, the Association shall call a meeting to be held at which the Members shall elect three (3) directors. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after the expiration of the Declarant Control Period, the two (2) directors receiving the highest number of votes shall be elected for terms of two (2) years each and the remaining director shall be elected for a term of one (1) year. At each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 3.4. Removal of Members of the Board of Directors. After expiration of the Declarant Control Period, at any annual or special meeting of the Association duly called, any one (1) or more Board members, except for directors appointed by Declarant hereunder, 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. Further, any director who is more than thirty (30) days past due in the payment of any assessment or charge shall be automatically removed from the Board of Directors, even if the director subsequently pays the amount owed, and the vacancy shall be filled as provided in Section 3.5 below. Any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings may be removed by the vote of a majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 3.5. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by a majority of the Total Association Vote or by Declarant, 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 of Directors. The successor so selected shall hold office until the next annual meeting. Notwithstanding anything to the contrary herein, any director who is an officer, director or other designated agent of an entity member and whose position becomes vacant for any reason, may be replaced by the entity who is the Member unless there has been a transfer of ownership of the Unit, in which case, the vacancy shall be filled by the remaining directors, even if less than a quorum at any meeting of the directors.

Section 3.6. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a majority of the Total Association Vote. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors. Directors also may be given nominal gifts or tokens of appreciation by the Association for recognition of services performed, not to exceed a value of One Hundred Dollars (\$100) per calendar year. For purposes hereof, reasonable food and beverages purchased for Board meeting shall not be considered compensation.

Section 3.7. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall

not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during the discussion. Notwithstanding anything herein, the directors, during the Declarant Control Period, shall be authorized on behalf of the Association to enter into contracts with the Declarant and its affiliates.

Section 3.8. Nominations and Declarations of Candidacy. The Board of Directors shall prescribe the opening date and the closing date of a reasonable filing period in which all eligible Members who have an interest in serving as a director may file as a candidate for such positions. The Board of Directors shall also have the right to establish such other Rules and Regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner. Each candidate shall be given a reasonable, uniform opportunity to communicate his qualifications to the Members and to solicit votes.

Section 3.9. Elections. All Members that are eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Voting for election of Board members shall be by written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted).

Section 3.10. Regular Board 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 six (6) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership. Notwithstanding the foregoing, during the Declarant Control Period, the Board shall not be required to hold regular meetings.

Section 3.11. Special Board Meetings. Special meetings of the Board may be called by the President on two (2) days notice to each director given by regular first class or electronic mail, in person, by telephone, or by facsimile transmission, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 3.12. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board, 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 Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A majority of directors shall constitute a quorum for the transaction of business. One (1) or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 3.14. Open Meetings. Board meetings need not be open to all Members. However, if the Board permits Members to attend Board meetings, then Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, 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. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

Section 3.15. 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 a majority of the directors consent to such action in writing, sent via hand delivery, regular first class, electronic mail, or facsimile. Such consents must describe the action taken and be signed by no fewer than a majority of the directors and such consents shall be filed with the minutes of the Board of Directors.

Section 3.16. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all of the powers conferred upon nonprofit corporations by common law, the statutes of the State of Georgia in effect from time to time, and all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in the Articles of Incorporation, these Bylaws, the Declaration, or the Georgia Nonprofit Corporate Code. 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 shall be responsible for the following, in the way of explanation, but not limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Member's share of the Common Expenses;

(b) designating assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing installment payments for the annual assessment;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility as more particularly described in the Declaration;

(d) designating, hiring, and dismissing the personnel necessary for the operation and upkeep of the Area of Common Responsibility and supervising the personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. §14-3-302, and using the proceeds to administer the Association;

(f) making, establishing, abolishing, amending, and enforcing reasonable Rules and Regulations and imposing sanctions for violations of the Declaration, these Bylaws and the Rules and Regulations including, without limitation, monetary fines as more specifically set forth in the Declaration and these Bylaws;

(g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Common Areas in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty;

(i) 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;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the costs of all services rendered to the Association or its Members and not directly chargeable to specific Members;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred; and

(m) contracting with any Person for the performance of various duties and functions, including but not limited to management companies, legal and accounting services. The Board of Directors shall have the power to enter into common management agreements with other Persons. Any and all functions of the Association shall be fully transferable by the Board of Directors, in whole or in part, to any other entity.

Section 3.17. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract by the Association with or without cause and without penalty, upon no more than thirty (30) days written notice. No management contract shall have a term in excess of one (1) year.

Section 3.18. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Area of Common Responsibility, and for other purposes, with the approval of a majority of the Total Association Vote.

Section 3.19. Liability and Indemnification of Officers, Directors and Committee Members. The Association shall indemnify every officer, director, and committee member (including directors, officers, and committee members appointed by Declarant during the Declarant Control Period) against any and all expenses, including reasonable attorneys' fees and expenses that are incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Association, in determining whether to indemnify a director, officer or committee member, shall not impute knowledge to said director, officer or committee member from any source whatsoever; rather, any such determination shall be based on the actual knowledge of the director, officer or committee member. 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 (except to the extent that such officers, directors and committee members may also be Members of the Association), and the Association shall indemnify and forever hold each such officer, director or 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 or director may be entitled. The Association shall maintain, as a Common Expense, adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

Section 3.20. Committees. The Board may establish an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Community as provided in the Declaration and such other committees as the Board determines with the powers and duties that the Board shall authorize. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

ARTICLE 4. OFFICERS

Section 4.1. Designation. The principal officers of the Association shall be the President, the Secretary and the Treasurer, all or any of which may be the same person. A Vice President may be elected at the discretion of the Board.

Section 4.2. Election of Officers. The Association officers shall be elected annually by the Board at the first Board meeting following each annual meeting of the Members and shall hold office at the pleasure of the Board and until a successor is elected.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4.4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 4.5. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and of the Board. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the Members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.6. Vice President. The Vice President, if any, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 4.7. Secretary. The Secretary shall keep the minutes of all meetings of the Members and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all duties incident to the office of the secretary of a corporation organized under Georgia law.

Section 4.8. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 4.9. Other Officers. Other offices may be created by the Board, and the Board members that hold such offices shall have such titles and duties as are defined by the Board.

Section 4.10. Agreements, Contracts, Deeds, Leases, Etc. Except during the Declarant Control Period, all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors. During the Declarant Control Period all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE 5. RULE MAKING AND ENFORCEMENT

Section 5.1. Authority and Enforcement. The Community shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify,

repeal and enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Units and the Common Areas, provided that copies of all such Rules and Regulations shall be furnished to all Members and Occupants. Any such Rule and Regulations may be repealed by the affirmative vote or written consent of a majority of the Total Association Vote and the consent of the Declarant during the Declarant Control Period, at an annual or special meeting of the membership. Every Member and Occupant shall comply with the Community Instruments, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one (1) or more aggrieved Members, to take action to enforce the terms of the Community Instruments.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Member's Unit, and to suspend a Member's right to vote or to use the Common Areas for violation of any duty imposed under the Community Instruments; provided, however, nothing herein shall authorize the Association or the Board to limit ingress and egress to or from a Unit. In the event that any Occupant of a Unit violates the Community Instruments and a fine is imposed, notice of such violation shall be sent to the Member and Occupant, and the fine shall first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Member shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the Unit until paid. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 5.2. Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Areas (provided, however, if an Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association, suspension of the right to vote and the right to use the Common Areas shall be automatic) unless and until the Association has sent or delivered written notice to the violator as provided in subsection (a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection (b) below.

(a) **Notice.** If any provision of the Community Instruments is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) **Hearing.** If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

ARTICLE 6. ASSESSMENTS AND ENFORCEMENT

Section 6.1. Authority and Enforcement. The Board of Directors shall have the authority to levy and collect reasonable assessments governing the Community as provided for in the Declaration. All sums lawfully assessed by the Association against any Unit and the Member thereof, together with interest thereon and the costs of collection thereof, shall, from the time the sums become due and payable, be the personal obligation of such Member and constitute a continuing lien in favor of the Association on such Unit.

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

Section 6.2. Fining Procedure. If a Member is shown on the books of the Association to be delinquent in any assessment due the Association, imposition of a late fee in the amount due shall be assessed against such Unit and the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, plus the late fee, may be declared by the Board of Directors to be immediately due and payable in full to the Association. All other lien rights and remedies available to the Association shall be binding on the Member if delinquent in the payment of his/her assessments. The Member's right to vote and the Member's right to use the Common Areas shall automatically be suspended for any assessments which are overdue by thirty (30) days or longer.

A late notice may be sent to a Member who has not paid assessments or late fees in full as more specifically set forth in the Declaration. The late notice may warn the Member that the account will be accelerated. If the assessment remains unpaid, the Association may institute suit to collect the debt and foreclose its lien as more specifically set forth in the Declaration. Non-receipt of such notice does not relieve the Member of Member's financial obligation to pay the costs of collection accrued by the Association for the satisfaction of the delinquent debt, including, but not limited to the late fees, interest, all costs of collections, including the costs of filing any liens against the delinquent property and costs of filing a civil suit for collection and reasonable attorneys' fees and expenses that are incurred.

If the Association receives from any Member, in any accounting year, two (2) or more checks returned for insufficient funds for payment of assessments or other charges, the Board may require all future payments to be made by certified check, cashier's check or money order for the remainder of the fiscal year.

Payments received shall be credited in the following order to the fullest extent allowed by the law:

- (a) to cover nonsufficient funds ("NSF") charges and reasonable attorneys' fees and expenses that are incurred in connection therewith;
- (b) to cover late charge;
- (c) to cover interest;
- (d) to cover delinquent or past due assessments, with longest outstanding assessments being paid first; and
- (e) to cover current assessments to include: initiation fee/capital contribution.

Failure of the Association to follow any of the procedures set forth herein or in the Declaration shall not excuse any Member from its obligation to pay all assessments, interest, charges and costs, including reasonable attorneys' fees and expenses that are incurred, due in a timely manner, nor shall failure constitute a waiver, modification or release of the Association's right to collect all assessments, costs, including reasonable attorneys' fees and expenses that are incurred, charges and interest due to the Association.

Section 6.3. Suspension of Utilities. In addition to the remedies herein, the Board of Directors may suspend a Member's right (and that of an Occupant's) to the use of utilities controlled by the Association whether or not actually provided by the Association or by a third party on the Association's behalf, including without limitation, electricity, water or gas until delinquent assessments and all related charges, including any applicable reasonable attorneys' fees and expenses that are

incurred, are paid in full. Prior to the imposition of any such suspension, the delinquent Member shall be sent notification that such utilities will be disconnected for non-payment and that Member will have an opportunity to be heard before the Board of Directors or such committee the Board of Directors may establish to hear such cases. No such suspension shall be imposed in a manner that will endanger the health, safety or property of any Member or Occupant.

ARTICLE 7. ADDITIONAL REMEDIES AND ENFORCEMENT RIGHTS

Section 7.1. Self-Help. Notwithstanding anything to the contrary herein contained, the Board of Directors may elect to enforce any provision of the Community Instruments by self-help (specifically including, but not limited to, the towing, booting or other means of handling vehicles that are in violation of parking Rules and Regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedures set forth in Articles 5 and 6. In any such action, to the maximum extent permissible, the Member or Occupant responsible for the violation for which abatement is sought shall be responsible for reasonable attorneys' fees and expenses that are incurred or other costs actually incurred.

Section 7.2. Rights of Entry and Removal. The Association or its duly authorized agent shall have the power to enter a Unit or upon any portion of the Common Areas to abate or remove any structure, thing or condition which violates the Declaration, the Bylaws, or the Rules and Regulations, using such force as may be reasonably necessary; provided, however, written notice shall be given to the Member of the Unit at least two (2) days prior to the time that any items of construction are altered or demolished; provided further that in the event that an emergency exists in which the abatement or removal is immediately required, the abatement or removal may be carried out without such notice, and the Association shall give such notice as soon thereafter as is reasonably possible, but in no event later than such timeframes as set forth in the Declaration. All costs of self-help, including reasonable attorneys' fees and expenses that are incurred, shall be assessed against the violating Member and shall be collected as provided herein for the collection of assessments.

Section 7.3. Remedies Cumulative. Nothing herein shall in anyway limit the remedies available to the Association. All remedies herein shall be deemed cumulative of those set forth in the Declaration of the Association and of those otherwise available at law or in equity.

ARTICLE 8. MISCELLANEOUS

Section 8.1. Notices.

(a) Method of Giving Notice. Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing and shall be given via:

- (i) Personal delivery to the addressee; or
- (ii) United States mail, first class, postage prepaid; or
- (iii) Electronic mail; or
- (iv) Facsimile; or
- (v) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

(b) Addressee. Notice sent by one of the methods described in subsection (a) above shall be deemed to have been duly given:

(i) If to an Owner, at the address, electronic mail address or facsimile number which the Member has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Unit of such Member;

(ii) If to an Occupant, at the address, electronic mail address or facsimile number which the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Unit occupied; or

(iii) If to the Association, the Board or the managing agent, at the postal address, facsimile or electronic mail address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Members of any such change in address.

Section 8.2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

Section 8.3. 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 Bylaws or the intent of any provision thereof.

Section 8.4. Gender and Grammar. The use of the masculine gender in these Bylaws 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.

Section 8.5. Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise set forth by Board resolution.

Section 8.6. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board and a financial statement prepared. However, after having received the Board's financial statement review at the annual meeting, the Members may, by a majority of the Total Association Vote, require that the accounts of the Association be audited as a Common Expense by an independent accountant. Such statement shall be made available to the holder, insurer, or guarantor of any first mortgage on a Unit upon submission of a written request and must be available within one hundred twenty (120) days of the Association's fiscal year end. If an audited financial statement by an independent accountant is not required, a mortgage holder may have an audited statement prepared at its own expense.

Section 8.7. Conflicts. The duties and powers of the Association shall be those set forth in the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Member of a Unit, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 8.8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Members holding two-thirds (2/3) of the Total Association Vote. During the Development Period, any amendment to these Bylaws shall also require the written consent of Declarant. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment.

Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

Section 8.9. Books and Records.

(a) Right to Inspect. All Members and Eligible Mortgagees shall be entitled to inspect the following records at a reasonable time and location specified by the Association, upon written request at least five (5) business days before the date on which the Member or Eligible Mortgagee wishes to inspect and copy:

(i) its Articles or restated Articles of Incorporation and all amendments to them currently in effect;

(ii) its Bylaws or restated Bylaws and all amendments to them currently in effect;

(iii) its Declarations or restated Declarations and all amendments to them currently in effect;

(iv) any and all resolutions adopted by either its Members or the Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of Members or any class or category of Members;

(v) any rules governing the Association;

(vi) any books, records or financial statements of the Association;

(vii) the minutes of all meetings of Members and records of all actions approved by the Members for the past three (3) years;

(viii) all written communications to Members generally within the past three (3) years, including the financial statements furnished for the past three (3) years;

(ix) a list of the names and business or home addresses of its current direct officers;
and

(x) its most recent annual registration delivered to the Secretary of State of Georgia.

(b) Inspection. A Member may inspect and copy the following records upon written notice at least five (5) business days before the date on which the Member wishes to inspect and copy only if the Member's demand is made in good faith and for a proper purpose that is reasonably relevant to the Member's legitimate interest as a Member; the Member describes with reasonable particularity the purpose and the records the Member desires to inspect; the records are directly connected with this purpose; and the records are to be used only for the stated purpose:

(i) excerpts from minutes of any Board meeting, records of any action of a committee of the Board while acting in place of the Board on behalf of the Association, minutes of any meeting of the Members, and records of action taken by the Members or the Board without a meeting, to the extent not subject to inspection under Section 8.9(a) above;

(ii) accounting records of the Association; and

(iii) the membership list only if for a purpose related to the Member's interest as a Member of the Association. Without the consent of the Board, a membership list or any part

thereof may not be: (A) used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held by the Association; (B) used for any commercial purpose; or (C) sold to or purchased by any Person.

Notwithstanding anything to the contrary, the Board may limit or preclude Member inspection of confidential or privileged documents, including attorney/client privileged communications, executive session meeting minutes, and financial records or accounts of other Members. Minutes for any Board or Association meetings do not become effective and an official Association record until approved by the Board or Association membership, as applicable, at a subsequent meeting.

(c) Costs Related to Inspection. The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Member or Eligible Mortgagee in accordance with this Section.