

GEORGIA, Fulton County, Clerk's Office Superior Court  
Filed & Recorded, MAY 24 1988 at 3.31

*Barbara J. Rice* CLERK

AMENDED AND RESTATED  
DECLARATION OF EASEMENTS, RESTRICTIONS  
AND COVENANTS

OF

ONE PEACHTREE BATTLE TOWNHOUSES

Plat for One Peachtree Battle Townhouses,  
Recorded in Plat Book 130, Page 120,  
Fulton County, Georgia Records

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>SECTION</u>	<u>PAGE</u>
I	DECLARATION AND DEFINITIONS	2
	1.01 Submission to Declaration	2
	1.02 Definitions	2
II	DESCRIPTION OF DEVELOPMENT	4
	2.01 Property Submitted to Declaration	4
	2.02 Lot Boundaries	4
III	PROTECTIVE COVENANTS	4
	3.01 Approval Required for Changes	4
	3.02 Residential Purposes	6
	3.03 Signs	6
	3.04 Use of Common Area	6
	3.05 Nuisances	6
	3.06 Prohibited Activities	6
	3.07 Governmental Regulations	7
	3.08 Exterior Appearance	7
	3.09 Pets	7
	3.10 Automobiles and Other Vehicles	7
	3.11 Rules and Regulations	8
	3.12 Sale or Leasing	8
IV	EASEMENTS	8
	4.01 Common Area	9
	4.02 Support	9
	4.03 Encroachments	9
	4.04 Rights of Association	9
V	MAINTENANCE AND REPAIR	10
	5.01 Association	10
	5.02 Owner	10
	5.03 Party Walls	11
	5.04 Reconstruction or Repair of Casualty Damage	12
VI	ASSESSMENTS	12
	6.01 Creation of Lien and Personal Obligation	12
	6.02 Common Expenses	13
	6.03 Capital Improvements	15
	6.04 Non-payment of Assessments; Remedies	15
	6.05 Lien for Assessments	15

	<u>PAGE</u>	
VII	ADMINISTRATION	16
	7.01 Administration of Development	16
	7.02 Duties and Powers	16
	7.03 Insurance	17
VIII	GENERAL PROVISIONS	17
	8.01 Amendment	17
	8.02 Eminent Domain	17
	8.03 Rights of Third Persons	17
	8.04 Enforcement	18
	8.05 Duration	18
	8.06 Interpretation	19
	8.07 No Partition	19
	8.08 Severability	19
	8.09 Captions	19

LIST OF EXHIBITS

- Exhibit "A" Description of Property  
Exhibit "B" By-Laws of Association

AMENDED AND RESTATED  
DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS  
OF  
ONE PEACHTREE BATTLE TOWNHOUSES

STATE OF GEORGIA

COUNTY OF FULTON

THIS AMENDED AND RESTATED DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS is made as of the 24th day of May, 1988, by the undersigned owners of One Peachtree Battle Townhouses;

WITNESSETH:

WHEREAS, One Peachtree Battle Townhouses is a residential development consisting of fourteen (14) townhouse units located in Fulton County, Georgia, submitted to that Declaration of Easements, Restrictions and Covenants (hereinafter referred to as the "Original Declaration"), recorded in Deed Book 8603, Page 293, Fulton County, Georgia Records;

WHEREAS, a plat relating to One Peachtree Battle Townhouses was filed in Plat Book 130, Page 120, aforesaid records;

WHEREAS, One Peachtree Battle Townhouses, Inc. was incorporated under the Georgia Nonprofit Corporation Code on July 18, 1983;

WHEREAS, in accordance with the provisions of the Original Declaration, the owners of at least ten (10) of such townhouse units have voted to amend and restate the Declaration as evidenced by their execution hereof and by the certificate of the Secretary of One Peachtree Battle Townhouses, Inc., attached hereto and made a part hereof; and

WHEREAS, in accordance with the provisions of the By-Laws of One Peachtree Battle Townhouses, Inc., at least two-thirds (2/3) of the members thereof, also being the owners of such townhouse units, have voted to amend such By-Laws;

NOW, THEREFORE, in consideration of the mutual benefits, covenants and conditions herein contained, the Original Declaration and the By-Laws of One Peachtree Battle Townhouses, Inc., are hereby stricken in their entireties, except for that Plat of One Peachtree Battle Townhouses, recorded in Plat Book 130, Page 120, aforesaid records, to which reference is herein made, and the undersigned owners do hereby restate and amend the Original Declaration and the By-Laws of One Peachtree Battle Townhouses, Inc. in full, and as thus restated and amended, the Declaration of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses and the By-Laws of One Peachtree Battle Townhouses, Inc., attached hereto, shall read as follows:

DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS  
OF ONE PEACHTREE BATTLE TOWNHOUSES

ARTICLE I

DECLARATION AND DEFINITIONS

1.01 Submission to Declaration. It is hereby declared that the property described in Exhibit "A," attached hereto and made a part hereof, including the improvements located thereon, is hereby made subject to the covenants, conditions, restrictions and easements set forth in this Declaration. By virtue of this Declaration, such property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions and easements hereof, which are for the purpose of protecting the value and desirability of, and which shall run with, such real property and shall be binding on all parties having any right, title or interest in such property or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner thereof. Every grantee of any interest in such property, by acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take subject to the provisions of this Declaration and shall be deemed to have assented to the same.

1.02 Definitions. When used in this Declaration, the following words shall have the following meanings, whether or not capitalized, unless the context shall prohibit or otherwise require:

(a) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, pursuant to which the Association was incorporated under the laws of the State of Georgia on July 18, 1983.

(b) "Assessment" shall mean and refer to an Owner's share of the common expenses from time to time assessed against an Owner by the Association in the manner herein provided.

(c) "Association" shall mean and refer to One Peachtree Battle Townhouses, Inc., its successors and assigns, organized pursuant to the Georgia Nonprofit Corporation Code.

(d) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(e) "By-Laws of One Peachtree Battle Townhouses, Inc." or "By-Laws" shall mean and refer to those by-laws governing the administration and operation of the Association, a copy of which is attached hereto as Exhibit "B" and made a part hereof.

(f) "Common Area" shall mean and refer to all of the Property other than the Lots and all installations, fixtures or improvements located thereon.

(g) "Common Expenses" shall mean and refer to all expenditures made to or liabilities incurred by or on behalf of the Association, together with all payments or obligations to reserve accounts.

(h) "Declaration" shall mean and refer to the Declaration of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses, Inc., recorded in Deed Book 8603, Page 293, Fulton County, Georgia Records, as amended and restated by Amended and Restated Declaration of Easements, Restrictions and

Covenants of One Peachtree Battle Townhouses and all other amendments filed for record on the records of Fulton County, Georgia.

(i) "Development" shall mean and refer to the Property and all improvements thereon known as One Peachtree Battle Townhouses.

(j) "Director" shall mean and refer to a member of the Board of Directors.

(k) "Dwelling" shall mean and refer to a townhouse.

(l) "Foreclosure" shall mean and refer to, without limitation, the judicial foreclosure of a mortgage or the exercise of a power of sale contained in any mortgage.

(m) "Lease" shall mean and refer to any lease, sublease or rental contract, whether oral or written.

(n) "Lot" shall mean and refer to any numbered plot of land on the Property comprising a single townhouse site, together with all improvements located thereon, as designated on the Plat.

(o) "Majority" shall mean and refer to more than fifty percent (50%) of the votes in the Association assigned to the Lots or more than fifty percent (50%) of the members of the Board of Directors or of any committee appointed by the Board of Directors, as may be applicable.

(p) "Mortgage" shall mean and refer to a mortgage, deed to secure debt, deed of trust or other instrument conveying a lien upon or security title to one or more Lots.

(q) "Mortgage Holder" or "Mortgagee" shall mean and refer to the holder of a mortgage.

(r) "Occupant" shall mean and refer to any person, including without limitation any Owner or lessee or sublessee of a Lot or any guest, invitee, agent, servant or family member of an Owner or of such lessee or sublessee, occupying or otherwise using a Lot.

(s) "Officer" shall mean and refer to an officer of the Association.

(t) "Owner" or "Lot Owner" shall mean and refer to one or more persons, who or which own a fee or undivided fee interest in any Lot, excluding, however, the holder of a mortgage or other holder of an interest merely as security for the performance of an obligation.

(u) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

(v) "Plat" shall mean and refer to that certain "Plat of One Peachtree Battle Townhouses, recorded in Plat Book 130, Page 120, Fulton County, Georgia Records, and any revisions thereof as may be filed for record from time to time.

(w) "Property," unless the context should otherwise require, shall mean and refer to that tract or parcel of land described in Exhibit "A" hereto and all improvements thereon.

(x) "Townhouse" shall mean and refer to the residential dwelling located on a Lot.

(y) "Vote" shall mean and refer to the vote in the Association to which each Owner shall be entitled.

## ARTICLE II

### DESCRIPTION OF DEVELOPMENT

2.01 Property Submitted to Declaration. The Development is comprised of the Property, including fourteen (14) Lots, common area and the improvements now or hereafter located thereon, and the locations of the Lots and the common area are shown on the Plat. Each Lot is designed for fee ownership, and the common area is owned by the Association for the common use and enjoyment of the Owners. No Lot shall be subdivided.

2.02 Lot Boundaries. Each Lot extends from the perimeter of the Property to the driveway at the front of the townhouse located thereon and shall have the lot dimensions shown on the Plat. The exterior side line of each Lot shall extend to the center line of each interior wall dividing individual townhouses located on adjoining Lots.

## ARTICLE III

### PROTECTIVE COVENANTS

To assure a community of congenial Owners and thus protect the value of the Lots, the Property, including all improvements comprising a part thereof, shall be subject to the restrictions set forth in this Article III and to all rules and regulations of the Association, which may now or hereafter be adopted.

3.01 Approval Required for Changes. To preserve the architectural appearance of the Development, to maintain the value of the Development, and to insure the overall aesthetic coordination of the Development, the following provisions shall apply to all alterations, changes or other construction of any nature:

(a) No construction of any nature whatsoever shall be commenced or maintained by any Owner with respect to the exterior of any townhouse or other structure on a Lot or with respect to any other part of a Lot or any portion of the common area, nor shall any exterior addition to, or change or alteration in, any Lot or townhouse be made, including without limitation any grading, any change in paint color of the exterior of any townhouse, or the temporary or permanent erection or alteration of any building, fence, wall, walkway or other structure or apparatus, unless and until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Board of Directors, as to architectural harmony and integrity, aesthetic quality of exterior design, quality of materials, appearance and location in relation to surrounding structures and topography. All such construction must be in compliance with all applicable governmental laws, ordinances, rules and regulations, and all necessary permits shall be obtained before any such construction is commenced. Further, no tree on any Lot shall be cut without the prior written approval of the Board of Directors. The Board of Directors may delegate any of its responsibilities and powers under this Section 3.01 to an architectural committee appointed by the Board of Directors.

(b) In the event of the failure of the Board of Directors or such committee to approve or disapprove plans and specifications submitted pursuant hereto within sixty (60) days after such plans and specifications have been delivered and submitted, and if no suit by any party having standing to enjoin the work contemplated by such plans and specifications has been commenced within

sixty (60) days of such submission, approval will be deemed to have been given. If no such submission has been made, suit to enjoin or remove such additions, alterations or changes may be instituted at any time.

(c) In the event that plans and specifications submitted to the Board of Directors or such committee are not complete or are inadequate to describe properly in detail the proposed work, in the sole opinion of the Board of Directors or such committee, the Owner making such submittal shall be notified in writing before the expiration of such sixty (60) day period, and such notice shall specify in reasonable detail why such plans and specifications are not complete or are inadequate. Upon resubmission of amended plans and specifications, the procedure for approval or disapproval as set forth above shall recommence. Any changes in any plans or specifications shall be submitted for approval in accordance with the provisions of this Section 3.01. All plans and specifications when submitted shall be the sole property of the Association.

(d) Neither the Board of Directors nor any member of such committee nor the Association shall be responsible or liable in any way for any defects in any approved plans or specifications, nor for any defects in any work done according to such plans and specifications, and no action of the Board of Directors or such committee or the Association shall be construed to be approval of the adequacy, safety or fitness for intended use of submitted plans, products or construction. Further, neither the Board of Directors nor any member of such committee nor the Association shall be liable in damages or in any other respect to any person submitting plans or specifications for approval under this Section 3.01, to any Owner or to any other person having an interest in any of the Property by reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. By submission of such plans and specifications, every Owner of any Lot releases and agrees to hold harmless and to defend the Board of Directors, any member of such committee and the Association from any such alleged liability, claim or damage.

(e) To provide a neat, attractive and harmonious appearance throughout the Development, no awnings, shades, screens or other item shall be attached to, hung, used or placed in any manner on the exterior of any window or door of any townhouse or structure or on the exterior of any such townhouse or structure without the prior written approval of the Board of Directors or such architectural committee, except that patio furniture, grills, neatly stacked firewood and other appropriate patio items permitted by the rules and regulations of the Association may be placed on patios of townhouses. All shades, drapery linings, shutters, blinds and other window treatments visible from the exterior of any townhouse on any window or door shall be white or off-white. Further, no colored lights, paint, foil or other reflective material visible from the exterior of any structure on a Lot shall be used on any window or door for sunscreens, blinds, shades or any other purpose, nor shall any window air conditioning units be installed.

(f) A Lot Owner may make improvements and alterations within the townhouse on his Lot; provided, however, that no Owner shall make any improvements or alterations within such townhouse or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety, soundness or structural integrity of any structure or otherwise materially lessen the support of any other structure. Further, no Owner shall impair any easement without first obtaining the written consent of the Association and of the Owner or Owners and their mortgagees for whose benefit such easement exists.

(g) The design, type, location, size, intensity and color of all exterior lights, including those mounted as part of the original construction of the

Development and those subsequently mounted with the consent of the Board of Directors, shall be subject to the control of the Board of Directors or an architectural committee appointed by the Board of Directors.

(h) The Board of Directors or such architectural committee shall have the right to approve the location, color, size, design, lettering and all other particulars of property identification markers, or receptacles for the receipt of mail, newspapers or other delivered materials, and of name signs for such receptacles.

3.02 Residential Purposes. The Property shall be, and hereby is, restricted exclusively to residential use, and the use and occupancy thereof shall be subject to such reasonable restrictions as the Board of Directors may establish pursuant to the rules and regulations of the Association.

3.03 Signs. No signs or advertising posters of any kind shall be maintained or permitted on any portion of the Property without the express written approval of the Board of Directors of the Association upon such conditions as may from time to time be determined by the Board of Directors, except that one "For Sale" or "For Lease" sign shall be permitted to be located in the window of a townhouse so long as such sign complies with the rules and regulations of the Association relating to signs adopted from time to time by the Board of Directors.

3.04 Use of Common Area. There shall be no obstruction of the common area, nor shall anything be kept, parked or stored on any part of the common area without the prior written consent of the Board of Directors of the Association, except as specifically provided herein and except that automobiles may be parked on the common area in accordance with any applicable rules and regulations of the Association. Nothing shall be altered on, constructed in, or removed from the common area except upon the prior written consent of the Board of Directors. It is expressly acknowledged and agreed by all Owners, by acceptance of a deed or other conveyance to a Lot, that this Section 3.04 is for the mutual benefit of all Owners in the Development and is necessary for the protection of all Owners.

3.05 Nuisances. No nuisance shall be permitted to exist or be operated upon any portion of the Property so as to be offensive or detrimental to persons using or occupying other portions of the Property. Without limiting the generality of any of the foregoing provisions, no exterior speakers (other than patio speakers installed as a part of the original construction of a townhouse), horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, which shall be subject to the reasonable control of the Board of Directors, shall be located, used or placed on the Property. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, except in containers or dumpsters specially designated for such purpose, nor shall any odors be permitted so as to render any portion of the Property unsanitary, unsightly, offensive or detrimental to persons using or occupying other portions of the Property. Any Owner or occupant of a Lot who shall dump or place any trash or debris upon any portion of the Property, except in the containers or dumpsters described above, shall be liable to the Association for the actual cost of the removal thereof, and the same shall be added to and become part of that portion of any assessment next coming due to which the Owner of such Lot is subject.

3.06 Prohibited Activities. Noxious or offensive activities shall not be carried on or in any part of the Property. Each Owner and occupant of a Lot shall refrain from any act or use of such Lot or the townhouse thereon or the common area which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the occupants of the Lots, or which could result in the cancellation of insurance on any portion of the Property, or which would be in violation of any law or governmental code or regulation. The pursuit of hobbies or other activities,

including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any portion of the Property. No mining or drilling shall be done on any Lot.

3.07 Governmental Regulations. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Property shall be observed. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

3.08 Exterior Appearance. To provide a neat, attractive and harmonious appearance throughout the Development, windmills, solar panels, basketball hoops and outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained on any portion of the Property, nor shall any clothing, rugs or any other item be hung on any railing or fence. Portable gas grills may be maintained only on the patio of a townhouse, provided that the same are in compliance with the applicable rules and regulations of the Association. No antenna or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic radiation shall be erected, used, or maintained outdoors on any portion of the Property, whether attached to a building or structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

3.09 Pets. No animals or birds shall be permitted in the Development, except that a reasonable number of animals and birds which are generally recognized as household pets may be kept by an Owner or occupant of a Lot subject to the restrictions set forth in this Declaration and any rules and regulations of the Association. Such pets may be kept and maintained solely as domestic pets and not for commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any pet shall be constructed or maintained on the exterior of any Lot or on any patio of a townhouse unless the same shall be approved in advance in writing by the Board of Directors of the Association. The pet of any Owner or occupant of a Lot shall be under leash when walked or exercised in any portion of the common area. No pet shall be permitted to leave its droppings on any portion of the Development, and the owner of such pet shall immediately remove the same. As provided by Section 8.04 hereof, the Association may impose fines for the violation of any restrictions set forth herein or in its rules and regulations relating to pets. Upon the written request of any Owner, if Owners having ten (10) of the votes in the Association determine at a meeting of the Association that, for the purposes of this Section 3.09, a particular pet or pets are not permitted, constitute a nuisance, are not reasonable in number or are otherwise in violation of this Section 3.09 or the rules and regulations of the Association, and upon the approval of Owners having such vote in the Association, the owner of a particular pet or pets shall be required to remove such pet or pets which are in violation of such restrictions from the Development.

3.10 Automobiles and Other Vehicles. Automobiles shall be parked only in garages, in driveways located on Lots and in designated guest parking spaces located on other portions of the Property, and the keeping and operation thereof on the Property shall otherwise be subject to the rules and regulations of the Association. Other motor vehicles, including without limitation mobile homes, motor homes, trucks, truck campers, trailers of any kind, boats, other types of vans, and any vehicles having advertising signs, shall not be stored or parked on the Property unless expressly permitted by the rules and regulations of the Association. Specifically, without limiting the generality of the foregoing, no truck

exceeding a forty foot single axle vehicle shall be permitted on the Property at any time. Further, no inoperable or unlicensed vehicles or vehicles on blocks shall be permitted on any portion of the Property. Although not expressly prohibited hereby, the Board of Directors of the Association may prohibit motorcycles, motorized bicycles, motorized go-carts and other such vehicles or contrivances, or any of them, from being operated upon any portion of the Property, except for ingress and egress, or may otherwise regulate the same if in the opinion of the Board of Directors such prohibition or regulation shall be in the best interests of the Development. Garage doors shall be operational at all times and shall be kept closed except for entrance to and exit from a garage.

3.11 Rules and Regulations. Reasonable rules and regulations concerning the use, enjoyment and occupancy of the Lots, the common area and all other portions of the Development may be adopted, promulgated, revoked, made and amended from time to time by the Board of Directors. Copies of such rules and regulations and amendments thereto shall be furnished by the Board of Directors to all Owners. Such rules and regulations shall be binding upon the Owners and occupants of Lots until and unless any such rule or regulation is specifically overruled and cancelled in a regular or special meeting of the Association by the vote of Owners holding a majority of the total votes in the Association. As provided by Section 8.04 hereof, the Association may impose fines for violation of any such rules and regulations as are determined by the Board of Directors.

3.12 Sale or Leasing. The right of any Lot Owner to sell, transfer, mortgage or lease his Lot shall not be subject to any right of first refusal or any similar restriction in favor of the Association, except that no transient tenants or occupants shall be permitted, nor shall there be any restriction on the right of an Owner to mortgage his Lot. Every lease of a Lot shall be in writing and shall be expressly subject to, and require the lessee to comply with, the provisions of this Declaration and the By-Laws and the rules and regulations of the Association. Each such lease shall not be for an initial term of less than one (1) year, unless otherwise approved in advance in writing by the Board of Directors; provided, however, that existing Owners of Lots as of the effective date of this instrument shall not be subject to the foregoing prohibition against terms of less than one (1) year. Any failure by the lessee to comply with the terms of such documents shall be a default under the lease, and any lease shall so provide. In the event of such non-compliance by any lessee, the Board of Directors shall have the right to levy an assessment against the Owner of such Lot for any charge or fine made by the Association incurred as a result of such non-compliance, and such Owner shall be responsible for such non-compliance and for losses caused by any such lessee. Prior to the commencement of any such lease, the Lot Owner or lessee shall provide the Secretary of the Association and the managing agent of the Association, if any, with a written notice from the Lot Owner stating that such Lot Owner has entered into a lease of his Lot, giving the name of the lessee, and thereafter with written notice of any assignment, sublease, extension or renewal of any such lease; the effective date of the lease and the terms of the lease and confirming that by its terms such lease is expressly subject to, and requires the lessee to comply with, the provisions of this Declaration and the By-Laws and the rules and regulations of the Association, provided, however, that existing Owners of Lots as of the effective date of this instrument shall not be required to give notice of the term of the Lease.

## ARTICLE IV

### EASEMENTS

The easements described by this Article IV from each Lot Owner to each other Lot Owner and to the Association are hereby reserved and established and shall be appurtenant to and shall pass with title to each Lot.

4.01 Common Area. Every Owner and occupant of a Lot shall have a right and easement of use and enjoyment in and to the common area (including the right of access, ingress and egress to and from the Lot over those portions of the Property designated for such purpose), subject to the right of the Association to control the use and enjoyment thereof as provided by the terms of this Declaration and all other rights of the Association and the Owners with respect to the common area as set forth in this Declaration, the By-Laws and the rules and regulations of the Association. Notwithstanding the foregoing, there may be no restriction on any Owner's right of ingress and egress over the common area to or from such Owner's Lot, which right shall be perpetual and appurtenant to the ownership of such Lot, nor shall any provision of this Declaration or the Articles of Incorporation or the By-Laws of the Association deprive any Owner from equal use and enjoyment of the common area.

4.02 Support. Every portion of a townhouse or wall on a Lot which contributes to the structural support or closure of another townhouse or wall or any part of the common area shall be burdened with an easement of structural support and closure. No Unit Owner shall be permitted to demolish any portion of the townhouse on his Lot except to the extent that such demolition may be required to repair or rebuild such townhouse or a portion thereof when the same has been partially or totally destroyed. Further, each Owner shall have and is hereby granted an easement for lateral support of his Lot, which shall burden any adjoining Lot or portion of the common area.

4.03 Encroachments. To the extent that any <sup>aves</sup> roof overhangs, veneer, siding, other building materials and structures attached to the walls and roofs of any of the townhouses encroach over or extend into the air space, improvements, fixtures, and/or real property located on an adjoining or contiguous Lot or the common area, there shall exist in favor of each townhouse an easement to permit the maintenance and repair of such encroachments. In the event that any such townhouse is damaged or destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, the Owner of the Lot on which such townhouse was located shall have an easement to reconstruct such encroachments in connection with the reconstruction of such townhouse. In the event that any townhouse shall be partially or totally damaged or destroyed as aforesaid and then repaired or reconstructed, encroachments of portions of such townhouse upon any other adjacent townhouse or Lot or upon the common area due to such repair or reconstruction shall be permitted, and valid easements for such encroachments and the maintenance and repair thereof shall exist. Further, an easement for encroachment upon adjacent Lots and upon the common area for the express purpose of repair and restoration of any townhouse so damaged or destroyed shall and does exist, and minor, temporary encroachments upon adjacent Lots or the common area due to any Owner's discharge and performance of his maintenance responsibilities upon his Lot shall be permitted. The foregoing notwithstanding, in no event shall an easement for an encroachment exist if such encroachment occurred due to the willful conduct of an Owner or occupant of a Lot or the Association. Such easement shall be exercised with caution to cause minimum damage and inconvenience to the adjoining Lot, its Owners and occupants. In the event damage shall be suffered by an adjoining Lot by the exercise of such easement, the Owner of the Lot exercising such right of easement shall pay for such damage, but such damage shall be limited to the physical damage incurred.

4.04 Rights of Association. There shall be a general easement in favor of the Association, its directors, officers, agents and employees (including, but not limited to any managing agent employed by the Association) to enter upon the Property or any portion thereof and to enter the Lots for the purpose of performing installation, maintenance, repair and replacement which is the responsibility of the Association. The Association shall also have an easement and right of entry upon any Lot for emergency security, safety and property protection of the Lot or other

Lots, including without limitation maintenance or repair of any plumbing, electrical or mechanical system in order to protect other Lots. Such right shall be exercised by the officers or agents of the Association or by police, fire or medical emergency personnel in the proper performance of their respective duties. The Association and each Owner shall have an easement across the open area of each Lot where necessary to provide, repair or maintain services to the Property or any Lot, but any damage caused to any Lot shall be corrected or repaired at no cost to the Owner thereof. Each Owner and occupant of a Lot shall afford to other Owners and to the Association, their respective agents, representatives and employees, such access through such Lot as may be reasonably necessary for such purposes and to exercise and discharge their respective powers and responsibilities. Except in the event of emergencies, however, such easements are to be exercised only during normal business hours and then whenever practicable, only upon advance notice to the Owner or occupant of a Lot directly affected thereby. The Association shall have the power to accept permits, licenses and easements benefitting the Property over and through other property, and the power to grant permits, licenses and easements over and through the common area for utilities and drainage, and for other purposes reasonably necessary or useful for the proper maintenance or operation of the Property and other public purposes consistent with the intended use of the common area. There shall be a blanket easement upon, across, through and under all portions of the common area for installation, replacement, repair and maintenance of all utility and drainage facilities, together with entry therefor. By virtue of these easements, it is expressly permissible for the company providing such utility or service to install and maintain facilities, including without limitation meter boxes, and conduits on, across, through and under the common area or any portions thereof for the purposes hereinabove stated.

## ARTICLE V

### MAINTENANCE AND REPAIR

5.01 Association. Except as may be herein otherwise specifically provided, the responsibility of the Association shall be to maintain, repair and replace all portions of the common area and to maintain and replace the paving, curbing and Property perimeter walls located on the Lots. The Association shall also have the responsibility for the painting and pressure washing of the exteriors of the townhouses, including all exterior woodwork and exteriors of entry doors, for the washing of the exteriors of windows and for the cleaning of gutters. The Association shall also be responsible for the maintenance of any trees, shrubs or other plantings located in the curbed areas of the Lots dividing driveways on the Lots. The Association shall not be liable for injury or damage to a person or property caused by the elements or by any Owner, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the common area or from any pipe, drain, conduit, appliance or equipment, the responsibility for the maintenance of which is that of the Association, nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the common area. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

5.02 Owner. The responsibility of each Owner of a Lot with respect to maintenance, repair and replacement shall be to maintain, repair and replace all portions of his Lot in a good, clean and attractive condition, including without

limitation the townhouse, exterior walls not a part of the townhouse and other structures located on such Lot and any utility lines located thereon, except for any portions of such Lot which are to be maintained by the Association as provided by Section 5.01 hereof. Each Owner shall keep such townhouse, walls and structures in a good state of repair and structurally sound. Each Owner shall be responsible for performing his responsibilities in such manner so as not unreasonably to disturb other Owners or occupants of Lots and shall promptly report to the Association or its agent any defect or need for repairs, the responsibility for the remedying of which is that of the Association. The Association shall have the right but not the obligation to make any repair or replacement or to do any cleaning or maintenance, which is the responsibility of the Owner, but which responsibility the Owner fails or refuses to discharge. In such event such Owner shall be obligated to pay for the cost incurred by the Association for such work, plus a service fee of ten percent (10%) thereof, and pursuant to Section 6.02 hereof, such cost, together with any attorneys' fees or costs of collection incurred by the Association, shall be specially assessed against such Owner's Lot. Each Owner shall also be obligated to pay for the cost of repairing, replacing, or cleaning any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of such Owner or occupant or licensee of such Owner's Lot, and pursuant to Section 6.02 hereof, such cost, together with any attorneys' fees or costs of collection incurred by the Association, shall be specially assessed against such Owner's Lot.

5.03 Party Walls. Each wall built as a part of the original construction of the townhouses situated on the Lots, the center line of which corresponds with any common Lot line and which serves and separates any two adjoining Lots, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section 5.03, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No structural portions of any party wall shall be altered, except that structural alterations may be made in the event that two townhouses owned by the same Owner are combined, provided that such alterations are made in compliance with all applicable governmental regulations. In the event that a party wall between units shall become in need of repair from casualty or deterioration, it shall be the duty of the Owners of each affected Lot to repair or restore such wall. In the event an Owner shall fail or refuse to participate in such repair, the other Owner shall have the right and easement to proceed with such repairs after reasonable notice of such intent to the other. Further, in the event of the failure of the Owners of a wall to keep such wall in repair, the Association may, pursuant to Section 5.02, make such repair, and such Owners shall be responsible for the cost thereof in accordance with the provisions of Section 5.02. The non-participating Owner shall reimburse the other for one-half of the cost of such repairs, plus reasonable attorneys fees should the claim be collected by or through an attorney. The costs of reasonable repair and maintenance of a party wall which are not covered by insurance shall be shared by the Owners who make use of the party wall in equal proportion. The cost of repair of interior finishes of the party wall shall be borne in its entirety by the Owner who occupies the side of the party wall affected by such repair. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and not repaired out of the proceeds of such insurance, any Owner who has used the wall may restore, protect or weatherproof the wall, and if the other Owner or Owners thereof thereafter make use of the wall, they shall contribute to such cost of restoration in equal proportions without prejudice, subject, however, to the right of any Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Section 5.03, to the extent that such damage is not covered by insurance, an Owner who by his negligence or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and of repairing any damage resulting from such exposure.

The right of any Owner to any contribution from any other Owner under this Section 5.03 shall be appurtenant to such Owner's Lot and shall pass to such Owner's successors-in-title and shall be a burden upon and shall pass with title to such other Owner's Lot.

5.04 Reconstruction or Repair of Casualty Damage. The provisions of this Section 5.04 shall govern the repair and reconstruction of the Property in the event of damage by fire or other casualty to any part thereof. The terms "repair" or "reconstruction" as used in this Section 5.04 mean repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty. In the event of any damage or destruction by casualty to any portion of the Property, the Board of Directors, as to the common area, and the Owner of a Lot, as to such Lot, shall take such steps as may be reasonably necessary to make the Property safe and secure and to prevent the same from creating a dangerous or hazardous situation. Each Owner and each mortgagee of a Lot, by acceptance of a deed or other conveyance therefor, hereby agree that in the case of damage or destruction to any part of the Property, such damage or destruction shall be repaired or reconstructed. All of the work of repairing or reconstructing any portion of the Property, the damage to or destruction of which resulted in the payment of any insurance proceeds under any insurance policy maintained by the Association, shall be the responsibility of the Association and shall be performed under the supervision of the Board of Directors. In discharging such supervisory responsibility, the Board of Directors shall be authorized, but shall not be obligated, to employ as its agents or consultants such building supervisors or architects as the Board of Directors shall determine. Immediately after such damage or destruction by fire or other casualty, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance with respect to property losses and obtain reliable and detailed estimates of the cost of repair or reconstruction of such damaged or destroyed property. The insurance proceeds payable with respect to such damage shall be disbursed to defray the cost of such repairs or reconstruction, and any proceeds remaining after defraying such costs shall be deposited in one or more reserve accounts of the Association. With respect to the repair or reconstruction of any Lot, the Owner of such Lot shall pay any deductible relating to the insurance proceeds therefor received by the Association. If such insurance proceeds and payments to cover deductible amounts and any applicable reserves of the Association are not sufficient to defray the cost of such repair or reconstruction, the Board of Directors shall levy a special assessment or assessments against all of the Lots to provide funds to pay such excess cost of repair or reconstruction. The repair or reconstruction of damage to be repaired or reconstructed to the common area or to any townhouse or other structure on a Lot shall be substantially in accordance with the provisions of this Declaration and the original plans and specifications for such damaged property unless otherwise approved by a majority of the votes in the Association held by all Owners. Each Owner, by acceptance of a deed to a Lot, covenants and agrees that in the event of loss to or damage or destruction of the townhouse or any other improvements located on such Owner's Lot which is not covered by insurance maintained by the Association, such Owner shall proceed promptly to repair or reconstruct the damaged improvements in a manner consistent with the original plans and specifications therefor.

## ARTICLE VI

### ASSESSMENTS

6.01 Creation of Lien and Personal Obligation. Each Owner of any Lot, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association annual and special assessments or charges provided by this

Declaration, together with interest thereon, which shall be fixed, established and collected from time to time as hereinafter provided. The allocation to each Lot of a share of the liability for all annual and special assessments described in this Declaration shall be equal, except as may be provided in Section 6.02(b) hereof. All annual and special assessments and other charges provided by this Declaration, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and continuing lien upon the Lot against which each such assessment or charge is made, and each Owner shall be personally liable for his portion of all assessments and charges coming due while he is the Owner of a Lot. The grantee of such Owner shall be jointly and severally liable for such portion of such assessments as may be due and payable at the time of the conveyance to such grantee. Notwithstanding the foregoing, if a statement as to unpaid assessments with respect to a Lot shall have been requested from the Association as provided in Section 6.02(a) hereof, such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments in excess of the amount set forth in such statement, if any, except for assessments thereafter becoming due. The sale or transfer of any Lot shall not affect the assessment lien; provided, however, that if the holder of a first priority mortgage of record or other person acquires title to any Lot as a result of foreclosure of a first priority mortgage, such holder or other person, his or its successors, successors in title and assigns, shall not be liable for, nor shall such Lot be subject to a lien for, any assessment hereunder chargeable to such Lot on account of any period prior to such acquisition of title. Such unpaid share of an assessment or assessments may be reallocated and assessed as common expenses collectible from all of the Owners, including such holder or other person, his or its successors, successors, successors in title, and assigns, and no such sale or transfer shall relieve the Owner from liability for any assessment thereafter becoming due or the Lot from the lien thereof.

6.02 Common Expenses. (a) General Assessments. The Board of Directors of the Association shall have the authority and duty to levy and enforce the collection of all assessments provided by this Article VI. The amount of all common expenses not specially assessed pursuant to the provisions of this Declaration, less the amount of all undistributed and unreserved common profits, shall be assessed against the Lots on an annual basis. The annual assessment payable by the Owners shall be levied by the Board of Directors of the Association upon its adoption of the budget and the annual Lot assessment for the ensuing fiscal year of the Association. Prior to the beginning of each fiscal year, the Board of Directors shall prepare a budget covering the estimated expenses for the coming year and the annual assessment to be paid by the Owners and shall cause notice of the budget and the annual assessment to be given to each Owner not later than fourteen (14) days prior to the annual meeting of the Association or the commencement of the new fiscal year, whichever first occurs. Such budget and annual assessment shall become effective as of the beginning of the new fiscal year; provided, however, that such budget and assessment may be disapproved at the annual meeting of the Association by two-thirds of the votes held in the Association by all Owners. In the event that the proposed budget and annual assessment are disapproved or the Board fails for any reason so to determine the budget and annual assessment for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessment in effect for the current fiscal year shall continue for the succeeding year. If the annual budget for the Association proves inadequate for the payment of current operating expenses, then the Board of Directors of the Association may at any time adopt a new budget and levy a special assessment or increase the current annual assessment to cover such deficiency if approved by not less than two-thirds of the Owners present, in person or by proxy, at a meeting of the Association, notice of which shall specify that purpose. Further, the Board of Directors may, upon thirty (30) days notice to the Owners increase the current annual assessment in the event of an increase in insurance premiums or water and sewer charges over the amounts in

the current annual budget. Common expenses of the Association shall include, but shall not necessarily be limited to, the following:

(i) any management fees and expenses of administration, including legal and accounting fees;

(ii) utility charges for utilities, including without limitation water and electricity, serving the common area, charges for other common services and taxes applicable to the common area;

(iii) utility charges for the utilities serving Lots which are not separately metered to the Lots;

(iv) the cost of all policies of insurance purchased for the benefit of the Association;

(v) the expense of maintenance, repair, replacement and operation of the common area and of those portions of the Lots which are the responsibility of the Association, except that the expense of the periodic painting of the townhouses shall be handled as provided by Section 6.02 (b) hereof;

(vi) the establishment and maintenance of an adequate reserve fund or funds for the periodic maintenance, repair and replacement of any improvements to the common area; and

(vii) such other charges as may be provided herein or as may be determined from time to time by the Board of Directors of the Association to be common expenses.

Each Owner shall be obligated to pay the annual assessment to the Association on a monthly basis on or before the first day of each month. In any year in which there is an excess of assessments and other income over expenditures, such excess shall appertain to the Lots in proportion to their respective liabilities for assessments under Section 6.01, and the Board of Directors, by resolution and without the necessity of a vote of the Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's assessments or to allocate the same to one or more reserve accounts of the Association described above. The Association shall, upon request by an Owner or purchaser of a Lot, furnish a certificate in writing, signed by an officer of the Association or the managing agent of the Property, setting forth the amount of any unpaid assessments with respect to such Lot. A reasonable charge, but not more than \$25.00, may be made by the Association for the issuance of such a certificate, which may be conclusive evidence of payment of any assessment therein stated to have been made.

(b) Special Assessments. Special assessments provided for by this Article VI or any other provision of this Declaration or the By-Laws may be levied by the Board of Directors of the Association, and the amount and due date(s) of such special assessments so levied by the Board shall be as specified by the Board, provided that the Board of Directors shall give not less than sixty (60) days notice of any special assessment to each Owner, other than a special assessment pursuant to Section 5.02 hereof, which may be payable upon ten (10) days notice. The Board of Directors may, at such times as determined by the Board of Directors, levy a special assessment for the periodic painting and pressure washing of the townhouses required to be performed by the Association. In addition to any other special assessments permitted or required by this Declaration, any common expenses occasioned by the conduct of the Owner of a Lot or the occupants or licensees of such Owner, including without limitation any costs incurred by the Association pursuant to Section 5.02 hereof and all attorneys' fees and costs of collection in

connection therewith, shall be specially assessed against the Lot or Lots, the conduct of any Owner, occupant or licensee of which occasioned any such common expenses.

6.03 Capital Improvements. In addition to the special and general assessments authorized above, the Board of Directors of the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any capital addition to or capital improvement of the common area or the cost of repair of casualty damage to the Property; provided, however, that any such special assessment for any such capital addition to or capital improvement of the common area shall be approved by two-thirds of the votes in the Association held by all of the Owners, voting in person or by proxy at a meeting duly called and held for such purpose.

6.04 Non-Payment of Assessments; Remedies. Any assessment, or portion thereof, not paid when due shall be delinquent, and the Board of Directors shall have the duty to enforce the collection of delinquent assessments. If any assessment or portion thereof is not paid within fifteen (15) days after the due date, then the Board of Directors may assess a late charge, not in excess of ten percent (10%) of the amount of each assessment or installment thereof not paid when due, which shall also be due and payable to the Association. If any assessment or portion thereof is delinquent for a period of more than fifteen (15) days, then if not paid within ten (10) days after written notice is given to the Owner to make such payment, the entire unpaid balance of the assessment for the year in question may be accelerated at the option of the Board of Directors and be declared due and payable in full. Such notice shall be sent by certified mail, return receipt requested, to the Owner both at the address of the Lot and at any other address or addresses the Owner may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. Each Owner shall also be liable for all reasonable attorneys' fees incurred by the Association in the collection of any delinquent assessment. Any assessment or portion thereof, together with authorized late charges, not paid when due shall at the option of the Board of Directors bear interest from the date of delinquency until paid at a rate not to exceed three percent (3%) over the "prime rate" per annum as announced from time to time by The Citizens and Southern National Bank of Atlanta, Georgia, or eighteen percent (18%) per annum, whichever is lower, subject to the provisions of applicable law. The Board of Directors of the Association may suspend the voting rights of an Owner of a Lot during the period in which any assessment or portion thereof applicable to such Lot remains unpaid and after at least ten (10) days written notice is given to such Owner as aforesaid. An action at law may be brought by the Association against the Owner personally obligated to pay the same without foreclosing or waiving the lien securing the same, and each Owner vests in the Board of Directors of the Association the right and power to bring all actions against him personally for the collection of such assessments as a debt, together with all such late charges, attorneys' fees, delinquent interest and costs of collection, and to foreclose the lien of such assessments. All payments on account shall be applied first to the aforesaid attorneys' fees and costs of collection, then to late charges, then to interest, and then to the assessment lien first due, and all late charges and interest collected shall be credited to the funds of the Association. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his Lot.

6.05 Lien for Assessments. All sums assessed against any Lot pursuant to this Article VI, whether for the share of the common expenses lawfully appertaining to that Lot or otherwise, including without limitation interest, costs and reasonable attorneys' fees incurred by the Association, shall from the time the same become due and payable constitute a lien against such Lot in favor of the Association. To the extent permitted by applicable law, such lien for assessments shall be superior

to all other liens except only (a) the lien for ad valorem taxes, (b) the lien of a first priority mortgage, if any, to which the Lot is subject, to the extent of any such assessments becoming payable on or after the date that such mortgage is filed for record, and (c) construction liens filed for record prior to the levy of such an assessment. All other persons acquiring liens or encumbrances on any Lot after this Declaration, which liens or encumbrances shall have been recorded in the records of Fulton County, Georgia, shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens or encumbrances. The Association shall evidence a lien for sums assessed pursuant to this Article VI by preparing written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot. Such notice shall be signed by an appropriate officer of the Association and may be recorded in the records of Fulton County, Georgia. No notice of lien shall be recorded until there is a delinquency in payment of an assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which security deeds on real property may be foreclosed in Georgia. In any such foreclosure, the Owner shall be required to pay the costs and expenses of filing the notice of lien, the costs of foreclosure, and all reasonable attorneys' fees incurred by the Association, and all such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the Lot as the Owner thereof. A release of notice of lien shall be executed by the Association and recorded in the public records of Fulton County, Georgia, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

## ARTICLE VII

### ADMINISTRATION

7.01 Administration of Development. The administration of the Development, and those acts required of the Association by the Georgia Nonprofit Corporation Code, this Declaration, the By-Laws and the Articles of Incorporation shall be the responsibility of the Association, and the exercise of the powers and duties of the Association shall be in accordance with the Georgia Nonprofit Corporation Code, this Declaration, the Articles of Incorporation and the By-Laws. Each Owner of a Lot shall be entitled and required to be a member of the Association, and the Owner or Owners of each Lot shall have one vote in the Association.

7.02 Duties and Powers. The duties and powers of the Association shall be those set forth in the Georgia Nonprofit Corporation Code, this Declaration, the By-Laws and the Articles of Incorporation of the Association, together with those reasonably implied to effect the purposes of the Association or any rights or powers granted by this Declaration or the By-Laws. Except to the extent otherwise required by the Georgia Nonprofit Corporation Code, this Declaration, or the By-Laws or Articles of Incorporation of the Association, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through its officers, without any further consent or action on the part of the Owners. The Board of Directors may delegate such duties of the Association to such persons as may be determined by the Board of Directors, including without limitation the employment of a professional management firm to manage the operation and affairs of the Development and the Association. In no event shall any member or members of the Board of Directors have any liability to any Owner or mortgagee for any failure by the Board of Directors to perform any duty or duties which,

under the terms of the Georgia Nonprofit Corporation Code, this Declaration or the Articles of Incorporation or the By-Laws of the Association, are to be performed by the Board of Directors, except to the extent specifically provided by law.

7.03 Insurance. The Association shall obtain and maintain at all times (i) insurance for all of the insurable improvements on the Property against loss or damage by fire or other hazards, including without limitation extended coverage, vandalism, malicious mischief, debris removal, cost of demolition, windstorm and water damage, in an amount consonant with the full replacement value of such insurable improvements, (ii) fidelity coverage against dishonest acts on the part of its Directors, officers, employees, contractors, agents and volunteers and others responsible for handling funds belonging to or administered by the Association, (iii) comprehensive public liability insurance with respect to the Property in amounts established by the By-Laws of the Association or the Board of Directors from time to time, and (iv) such other types of insurance either required by law or the By-Laws or authorized by the Board of Directors from time to time. Such insurance shall be governed by all applicable requirements of the By-Laws of the Association, and the premiums therefor shall be a common expense of the Association.

## ARTICLE VIII

### GENERAL PROVISIONS

8.01 Amendment. This Declaration may be amended at any time and from time to time by the assent of Owners having at least ten (10) of the votes in the Association. Amendments to this Declaration may be proposed by the Board of Directors of the Association or by petition signed by Owners having at least thirty percent (30%) of the total votes of the Association. Agreement of the required number of Owners to any such amendment shall be evidenced by their execution of the amendment or a written consent thereto, or, in the alternative, by the sworn statement of the President, any Vice-President or the Secretary of the Association, attached to or incorporated in an amendment executed by the Association, in which sworn statement it is stated unequivocally that agreement of the required number of Owners was otherwise lawfully obtained. Any such amendment shall become effective only when recorded or at such later date as may be specified in the amendment itself.

8.02 Eminent Domain. In the event that the common area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the common area or any part thereof and shall receive the proceeds for the use and benefit of the Owners and their mortgagees as their interests may appear. Any damage to the Lots or the common area after a partial condemnation shall be restored or repaired substantially in accordance with the provisions of this Declaration and the original plans and specifications therefor unless other action is approved by a majority of the votes in the Association held by all Owners.

8.03 Rights of Third Persons. This Declaration shall be recorded for the benefit of the Owners and their mortgagees as herein provided, and by such recording, no adjoining property owner or third party, shall have any right, title or interest whatsoever in the Development or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and the Owners shall have the right to cancel, extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any such adjoining owner or third party.

8.04 Enforcement. Each Owner and occupant of a Lot shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration and the By-Laws and the rules and regulations of the Association, now or hereafter adopted, as the same may be lawfully amended from time to time, and with decisions of the Association made pursuant thereto. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Association or, in a proper case, any aggrieved Owner or Owners, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. Any aggrieved Owner shall also have an appropriate right of action against the Association for failure to comply with the Declaration, the By-Laws, the rules and regulations of the Association now or hereafter adopted, as the same may be lawfully amended from time to time, or with decisions of the Association made pursuant thereto. Should the Association employ legal counsel to enforce any of the foregoing or any other rights or remedies of the Association, all costs incurred in such enforcement, including a reasonable fee for counsel if a final judgment is obtained by the Association in any court of competent jurisdiction, shall be paid by the violating Owner or the Owner of the Lot of such occupant. Inasmuch as the enforcement of the provisions of this Declaration and the By-Laws and such rules and regulations is essential for the protection of present and future Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that the Association or, in any proper case, any aggrieved Owner or Owners, in addition to all other remedies, may require and shall be entitled to the remedy by injunction to restrain any such violation or breach or threatened violation or breach. The Association may, in case of repeated violation by an Owner or occupant of a Lot of any of the covenants, conditions or restrictions of this Declaration or the By-Laws or the rules and regulations of the Association, suspend temporarily the voting rights of an Owner after failure of such Owner or occupant to cure such violation within ten (10) days after written notice to such Owner and to such occupant, if applicable, and the Association shall also have the right to levy a fine in the amount of \$25.00 against such Owner for each such violation, including \$25.00 for each day or time a violation is continued or repeated after written notice is given to cease and desist. All fines assessed or levied pursuant to this Declaration may be collected and enforced as a special assessment pursuant to Section 6.02(b). No delay, failure or omission on the part of the Association or any aggrieved Owner or Owners in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, of the provisions and regulations, however long continued, or for the imposing of provisions which may be unenforceable.

8.05 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, shall be binding upon and inure to the benefit of and be enforceable by all Owners, their heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of twenty (20) years from the date of filing on the Fulton County, Georgia Records, unless sooner terminated. Upon the expiration of such twenty (20) year term, this Declaration shall be automatically extended, to the extent permitted by the laws of the State of Georgia, for successive renewal periods of ten (10) years each, unless terminated as hereinafter provided. If such extension is not so permitted by Georgia law, it shall be the duty of the Board of Directors of the Association to cause this Declaration to be amended of record when necessary by filing a document bearing the signatures of Owners having a majority of the voting interest in the Association reaffirming and newly adopting such provisions in order that the same may continue to be covenants running with title to the Property. Such adoption by

a majority shall be binding upon all the Owners. The easements granted and reserved by this Declaration shall run with and bind the land, shall be binding upon and inure to the benefit of and be enforceable by all Owners, their heirs, executors, legal representatives, successors and assigns and shall be perpetual unless otherwise expressly provided herein. Every purchaser or grantee of any interest in any property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Jimmy Carter, former President of the United States.

8.06 Interpretation. In all cases the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board of Directors of the Association, will best effect the intent of the general plan of the Development. The provisions hereof shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective. In the event of any conflicts or inconsistencies between Georgia law, this Declaration, the Articles of Incorporation or the By-Laws, the terms and provisions of Georgia law, this Declaration, the Articles of Incorporation and the By-Laws, in that order, shall prevail. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

8.07 No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

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

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

IN WITNESS WHEREOF, the undersigned have signed and sealed this Amended and Restated Declaration of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses, effective as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

S.T. Thomas  
Unofficial Witness

Elizabeth A. Hiss  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State At Large  
My Commission Expires Jan. 9, 1989

Signed, sealed and delivered  
in the presence of:

S.T. Thomas  
Unofficial Witness

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Owner - Lot No. 1

William H. Glenn, Jr. (SEAL)  
WILLIAM H. GLENN, JR.



Owner - Lot No. 6

J. W. Morgan (SEAL)  
J. W. MORGAN

Joyce M. Morgan (SEAL)  
JOYCE M. MORGAN



Owner - Lot No. 7

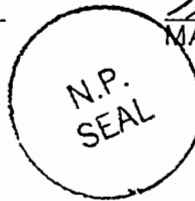
Jeanne A. Sellers (SEAL)  
JEANNE A. SELLERS



Owner - Lot No. 14

Gerald J. Bump (SEAL)  
GERALD J. BUMP

Marguerite C. Bump (SEAL)  
MARGUERITE C. BUMP



Signed, sealed and delivered  
in the presence of:

Beth Adams  
Unofficial Witness

Elizabeth A. High  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State At Large  
My Commission Expires Jan. 9, 1989

Owner - Lot No. 2

Sally C. Levings (SEAL)  
SALLY C. LEVINGS



Signed, sealed and delivered  
in the presence of:

SE Thomas  
Unofficial Witness

Elizabeth A. High  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State At Large  
My Commission Expires Jan. 9, 1989

Owner - Lot No. 3

Heinz von Zabern (SEAL)  
HEINZ VON ZABERN



Signed, sealed and delivered  
in the presence of:

SE Thomas  
Unofficial Witness

Elizabeth A. High  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State At Large  
My Commission Expires Jan. 9, 1989

Owner - Lot No. 11

Frances S. Bussey (SEAL)  
FRANCES S. BUSSEY

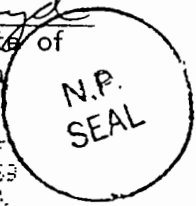


Signed, sealed and delivered  
in the presence of:

Jane S. Dame  
Unofficial Witness

Sandra A. Boyd  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State of Large  
Notary Commission Expires 12/31/99



Owner - Lot No. 4

GEORGE S. MORGAN DEVELOPMENT  
COMPANY, INC.

By: [Signature]  
Title: President

Attest: [Signature]  
Title: Asst. Secretary

(CORPORATE SEAL)

Signed, sealed and delivered  
in the presence of:

Jane S. Dame  
Unofficial Witness

Sandra A. Boyd  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State of Large  
Notary Commission Expires 12/31/99



Owner - Lot No. 12

[Signature]  
GEORGE S. MORGAN

(SEAL)



Signed, sealed and delivered  
in the presence of:

Jane S. Dame  
Unofficial Witness

Sandra A. Boyd  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, Georgia, State of Large  
Notary Commission Expires 12/31/99



Owner - Lot No. 13

Mia H. Owens (SEAL)  
MIA H. OWENS

[Signature] (SEAL)  
GEORGE S. MORGAN

Signed, sealed and delivered  
in the presence of:

Owner) - Lot No. 9

Dana Edwards  
Unofficial Witness

William E. Merritt (SEAL)  
WILLIAM E. MERRITT

Sharon S. Halley  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)

Notary Public, State of Florida  
My Commission Expires Sept. 13, 1988  
Bonded thru Troy Funn Insurance, Inc.



The undersigned Owner, having acquired title to Lot No. 1 of One Peachtree Battle Townhouses, hereby joins in and consents to the foregoing Amended and Restated Declarations of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses.

Signed, sealed and delivered  
in the presence of:

Owner - Lot No. 1

Mary M. Miller  
Unofficial Witness

Marguerite C. Toyne (SEAL)  
MARGUERITE C. TOYNE

Elizabeth D. Hill  
Notary Public (Affix Date of  
Expiration of Commission  
and Notarial Seal)



Notary Public, Georgia State at Large  
My Commission Expires Jan. 9, 1988

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 111 and 112 of the 17th District, Fulton County, Georgia, as shown and described on plat entitle "Property of the 26th Street Company" by Roger L. Cordes & Associates dated October 20, 1980 and being more particularly described as follows:

BEGINNING at an iron pipe at the intersection of the westerly right-of-way of Peachtree Road, a public road having an eighty foot right-of-way, with the northerly right-of-way of Peachtree Battle Avenue, a public road, and run then N. 78° 35' 30" W along the northerly right-of-way of Peachtree Battle Avenue 197.65' to a point; continuing along said line of said road and following a curve to the right having a radius of 813.92' an arc distance of 65.35' (said arc being subtended by a chord bearing N. 76° 17' 25" W., a distance of 65.34') to an iron pipe at the southeasterly corner of property now or formerly owned by Pulgram; then N. 13° 51' 05" E. along the easterly line of said Pulgram 107.73' to an iron pin; then N. 14° 14' 40" E. along said line of said Pulgram 49.59 to an iron pin; then N. 10° 53' 30" E. along said line of said Pulgram 49.80' to an iron pin in the southerly line of property now or formerly owned by Brannon, et. al.; then S. 76° 25' 30" E. along said line of said Brannon, et. al. 260.09' to an iron pipe in the westerly right-of-way line of Peachtree Road; then S. 12° 28' 25" W. Along said line of said road 49.98' to an iron pipe; then S. 12° 01' 20" W. along said line of said road 54.74' to an iron pin; then S. 12° 38' 45" W. along said line of said road 95.08' to the iron pipe at the point of beginning and containing an area of 53,315 square feet (1.22394 acres).

EXHIBIT "B"

BY-LAWS OF  
ONE PEACHTREE BATTLE  
TOWNHOUSES, INC.

BY-LAWS OF  
ONE PEACHTREE BATTLE TOWNHOUSES, INC.

<u>ARTICLE</u>	<u>SECTION</u>	<u>PAGE</u>
I	1.01 Name	1
	1.02 Purpose and Applicability	1
	1.03 Registered Office and Agent	1
II	MEMBERSHIP AND VOTING RIGHTS	1
	2.01 Membership	1
	2.02 Voting Rights	1
	2.03 Suspension of Voting Rights	1
III	MEETINGS OF MEMBERS	2
	3.01 Annual and Special Meetings	2
	3.02 Notice of Meetings	2
	3.03 Quorum	2
	3.04 Adjourned Meetings	2
	3.05 Action Taken by Association	2
IV	BOARD OF DIRECTORS	3
	4.01 Powers and Duties	3
	4.02 Number and Term	3
	4.03 Election of Directors	3
	4.04 Removal, Resignation or Disqualification	3
	4.05 Quorum	3
	4.06 Meetings	3
	4.07 Waiver of Notice	4
	4.08 Action Taken by Directors	4
	4.09 Action Without Meeting	4
	4.10 Adjourned Meetings	4
	4.11 Committees	4
V	OFFICERS	4
	5.01 Enumeration of Officers	4
	5.02 Election	5
	5.03 Removal, Resignation or Disqualification	5
	5.04 President	5
	5.05 Vice-President	5
	5.06 Secretary	5
	5.07 Treasurer	5
VI	INSURANCE	6
	6.01 Insurance Coverage	6
	6.02 Casualty Insurance	6
	6.03 Public Liability Insurance	6
	6.04 Policy Provisions	6
	6.05 Casualty Insurance Proceeds	7
	6.06 Individual Insurance	7
VII	MISCELLANEOUS	8
	7.01 Books and Records	8
	7.02 Contracts	8
	7.03 Funds of Association	8

7.04	Financial Statements	8
7.05	Gifts	8
7.06	Notices	8
7.07	Taxes and Insurance Premiums	9
7.08	Amendment	9
7.09	Indemnification	9
7.10	Fiscal Year	9
7.11	Severability	9
7.12	Interpretation	9
7.13	Conflicts	10
7.14	Definitions	10

BY-LAWS  
OF  
ONE PEACHTREE BATTLE TOWNHOUSES, INC.

ARTICLE I.

GENERAL

Section 1.01 Name. The name of this corporation shall be ONE PEACHTREE BATTLE TOWNHOUSES, INC. (hereinafter referred to as the "Association").

Section 1.02 Purpose and Applicability. These By-Laws provide for the governance of the Association, which is established pursuant to the Georgia Nonprofit Corporation Code for One Peachtree Battle Townhouses, a residential development (hereinafter referred to as the "Development"), located in Fulton County, Georgia, and pursuant to the Declaration of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses (hereinafter referred to as the "Declaration"), recorded in Deed Book 8603, Page 293, Fulton County, Georgia Records, as amended by Amended and Restated Declaration of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses. The terms defined in the Declaration shall have the meanings therein specified whenever used in these By-Laws unless the context otherwise requires.

Section 1.03 Registered Office and Agent. The Association shall maintain a registered office and shall have a registered agent whose business office is identical with such registered office. The Association may have offices at such place or places at the Development or within reasonable proximity thereto as the Board of Directors may from time to time designate.

ARTICLE II.

MEMBERSHIP AND VOTING RIGHTS

Section 2.01 Membership. Every person who is the owner of a fee or undivided fee interest in a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from the ownership of a Lot. Membership shall not include a mortgagee or other person who holds an interest merely as security for the performance of an obligation.

Section 2.02 Voting Rights. The Association shall have one class of voting membership, and each Owner of a Lot shall be entitled to one vote for each Lot owned. If a Lot is owned by more than one person, the vote for such Lot shall be exercised as such Owners among themselves shall determine, but shall be cast as a whole. The vote of any Lot Owner may, and shall in the case of an Owner which is not a natural person, be cast pursuant to a written proxy duly executed by or on behalf of such Owner.

Section 2.03 Suspension of Voting Rights. During any period in which the Owner of a Lot shall be in default for more than thirty (30) days in the payment of any assessment or other charge due and owing to the Association, after at least ten (10) days prior written notice to such Owner of such default, the voting rights appurtenant to such Lot may be suspended by the Board of Directors. In such event the vote appurtenant to such Lot shall not be counted for any purpose until such assessment or charge has been paid.

## ARTICLE III.

### MEETINGS OF MEMBERS

Section 3.01 Annual and Special Meetings. Regular annual meetings of the membership of the Association shall be held within the first ten (10) days of the month of February of each year, on a date and at a time and place set by the Board of Directors. Special meetings of the members may be called at any time by the Board of Directors, by the President, Secretary or Treasurer of the Association or by a petition signed by Lot Owners entitled to cast at least one-third (1/3) of the votes of the Association and presented to the Secretary of the Association. Membership meetings shall be held at the Development or at such other place within reasonable proximity thereto as may be designated in the notice thereof.

Section 3.02 Notice of Meetings. Notice of each annual or special membership meeting, stating the date, time and place of the meeting, and the purpose thereof in the case of a special meeting, shall be delivered personally or sent by United States Mail, postage prepaid, to all Lot Owners in accordance with Section 7.06 hereof and to any other person entitled to notice. Notice shall be given at least fourteen (14) days in advance of any annual meeting and at least seven (7) days in advance of any other meeting. The mailing of notice in the manner provided in this Section 3.02 shall be considered notice given. Any Owner or any other person entitled to notice may waive the notice of a meeting by doing so in writing before or after the meeting. Attendance at a meeting, either in person or by proxy, shall of itself constitute a waiver of notice and waiver of any and all objections to the place or time of the meeting or the manner in which it has been called or convened, unless a member or other person entitled to notice attends such meeting solely for the purpose of stating, at the beginning of the meeting, any such objection or objections to the transaction of business. A recitation in the minutes of any meeting that notice of such meeting was properly given shall be prima facie evidence that such notice was so given.

Section 3.03 Quorum. At all membership meetings, a quorum shall be deemed present throughout any meeting until adjourned if Lot Owners entitled to cast a majority of the votes of the Association are present in person or by proxy at the beginning of such meeting.

Section 3.04 Adjourned Meetings. Any meeting of the membership, whether or not a quorum is represented, may be adjourned for periods not exceeding forty-eight (48) hours from time to time by the holders of a majority of the votes represented at such meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting or of the business to be transacted at such meeting, other than by an announcement at the meeting at which such adjournment is taken. At any such reconvened meeting at which a quorum is represented, any business may be transacted which could have been transacted at the adjourned meeting.

Section 3.05 Action Taken By Association. Except as otherwise provided by law or by the Articles of Incorporation, the Declaration or these By-Laws, any action taken at any meeting of members at which a quorum is represented shall be effective and valid if taken or authorized by not less than a majority of the votes represented at such meeting. Voting on all matters shall be by voice or a show of hands unless any member qualified to vote, prior to the voting on any matter, demands vote by ballot. In the event of any tie vote at any meeting of the Association, the President, or the Vice President in the absence of the President, shall cast a separate vote to break the tie in addition to the vote to which such officer may also be entitled. Any action which may be

taken at a meeting of the members may be taken without a meeting if written approval and consent, setting forth the action authorized, shall be signed by each of the members entitled to vote on the date on which the last such member signs such approval and consent and upon the filing of such approval and consent with the Secretary of the Association.

#### ARTICLE IV.

##### BOARD OF DIRECTORS

Section 4.01 Powers and Duties. The business and affairs of the Association shall be managed by the Board of Directors. The Board of Directors shall have the powers and duties necessary to administer the affairs of the Association, including, but not necessarily limited to, those powers and duties specifically assigned to the Board of Directors by law, the Declaration, the Articles of Incorporation and these By-Laws.

Section 4.02 Number and Term. The Board of Directors shall be composed of a maximum of five (5) and a minimum of three (3) persons, and the exact number within such maximum and minimum shall be fixed by resolution of the Directors from time to time. Each Director shall serve for a term of one (1) year. Directors must be Lot Owners at all times during their service as Directors; provided, however, that a Director may be a shareholder, director, officer, partner in, or trustee of any person which is, either alone or in conjunction with any other person or persons, an Owner of a Lot. *change*

Section 4.03 Election of Directors. At each annual meeting, the members shall elect Directors to succeed to the office of all Directors whose terms have expired, and each Director shall serve until the annual meeting at which his term expires and until his successor has been duly chosen and qualified. Persons may be nominated for election to the Board of Directors by a nominating committee appointed by the incumbent Board of Directors prior to the annual meeting and may be nominated by nominations made from the floor at the meeting for such election. Cumulative voting shall not apply to any election of the members of the Board of Directors.

Section 4.04 Removal, Resignation or Disqualification. At any membership meeting any one or more of the Directors may be removed with or without cause by a majority vote of the total authorized vote of the Association, and a successor shall be elected at such meeting 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 such meeting and the purpose thereof and shall be given an opportunity to be heard at such meeting. Any Director may resign at any time by giving written notice to the other members of the Board of Directors, and the sale of a Lot by a Director or termination of his interest therein shall automatically terminate his directorship. Vacancies in the Board of Directors caused by any reason other than the removal of a Director shall be filled by vote of the majority of the remaining Directors even though they may constitute less than a quorum, and each person so elected shall serve until a successor is elected and qualified. ^

Section 4.05 Quorum. At all meetings of the Board of Directors, a majority of the Directors then in office shall constitute a quorum for the transaction of business.

Section 4.06 Meetings. The first and organizational meeting of each Board of Directors shall be held without other notice than this By-Law immediately after, and at the same place as, the membership meeting at which such Board of Directors or members thereof have been elected. The Board of

Directors may schedule other regular meetings to occur throughout the year. No notice shall be required for any regularly scheduled meeting. Special meetings of the Board of Directors may be called by the President of the Association or by any two directors on not less than seven (7) days' notice to each Director, given personally or by mail, telephone or telegraph. Such notice shall state the time, place and purpose of the meeting.

Section 4.07 Waiver of Notice. Before or after any meeting of the Board of Directors, any Director may, in writing, waive notice of 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 be a waiver of notice of such meeting and waiver of any and all objections to the place or time of the meeting or the manner in which it has been called or convened, except when a Director states, at the beginning of the meeting, any such objection or objections to the transaction of business.

Section 4.08 Action Taken by Directors. Except as otherwise provided in the Declaration and these By-Laws or by law, every act or decision by a majority of the Directors present in person at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. In the event of any tie vote, the President shall cast an additional separate vote to break the tie.

Section 4.09 Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all members of the Board of Directors and such written consent is filed with the minutes of the proceedings of the Board. Such consent shall have the same force and effect as a unanimous vote of the Board of Directors.

Section 4.10 Adjourned Meetings. A meeting of the Board of Directors, whether or not a quorum is present, may be adjourned by a majority of the Directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting which was adjourned.

Section 4.11 Committees. The Board of Directors shall have the power and authority to create committees, and each such committee shall have and exercise such powers as may be provided by the Board of Directors. The members, including the chairman, of all such committees established by the Board of Directors shall be appointed by and shall serve at the pleasure of the Board of Directors. A majority of the members of each such committee shall constitute a quorum, and each such committee shall act by a majority of its members present at any meeting unless otherwise specified by the Board of Directors.

## ARTICLE V.

### OFFICERS

Section 5.01 Enumeration of Officers. The officers of the Association shall be a President and a Vice President, who shall be members of the Board of Directors, a Secretary, a Treasurer, and such other officers as the Board may from time to time create. Each officer must be eligible to be a Director as established in Section 4.02 of these By-Laws.

Section 5.02 Election. The Board of Directors shall elect the officers of the Association at each organizational meeting thereof. Each officer shall serve until the next organizational meeting of the Board of Directors and until his successor is duly elected and qualified. The Board of Directors at any time and from time to time may appoint such other officers as it shall deem necessary, who shall hold their offices for such terms and shall perform such duties as shall be determined by the Board of Directors. Any person may hold two (2) or more offices, except that no person may hold the office of President and Secretary simultaneously.

Section 5.03 Removal, Resignation or Disqualification. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. Any officer may resign at any time by giving written notice to the members of the Board of Directors, and the sale of his Lot by an officer or the termination of his interest in a Lot shall automatically terminate his term as an officer. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, shall, in the case of the President, Vice President, Secretary or Treasurer, and may, in the case of any other officer, be filled by the Board of Directors for the unexpired portion of the term.

Section 5.04 President. The President shall be Chairman of the Board of Directors and the chief executive officer of the Association. Subject to the control of the Board of Directors, the President shall in general manage, supervise, and control all of the business and affairs of the Association and perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Directors from time to time. The President shall, when present, preside at all membership meetings and meetings of the Board of Directors.

Section 5.05 Vice-President. In the absence of the President, or in the event of his death, disqualification, inability or refusal to act, the Vice-President shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall also perform such other duties as shall from time to time be assigned by the Board of Directors.

Section 5.06 Secretary. The Secretary shall attend and keep minutes of meetings of the members and Board of Directors, see that all notices are given as required by law, by the Declaration or by these By-Laws, and be the custodian of all Association records, other than accounting records. The Secretary shall, in general, shall perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board of Directors.

Section 5.07 Treasurer. The Treasurer shall have charge and custody of and be responsible for all funds and accounting records of the Association, shall render to the Board of Directors an account of the financial condition of the Association whenever requested, and shall in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Directors. If any of the foregoing duties are delegated by the Board of Directors to a managing agent or accountant, the Treasurer shall be responsible for supervising such agent.

ARTICLE VI

INSURANCE

Section 6.01 Insurance Coverage. The Association shall obtain and maintain in effect at all times casualty, public liability, workmen's compensation and fidelity insurance coverage in accordance with the provisions of the Declaration and these By-Laws and the provisions of state and local insurance law and such other coverage as the Board of Directors shall determine. Any fidelity bond shall be in an amount at least equal to one and one-half times the amount of three months' assessments of the Association plus the reserve funds of the Association and shall contain waivers of any defense based upon the exclusion of persons serving without compensation. Except as may be otherwise provided in the Declaration or these By-Laws, insurance policies for the Development shall be master or blanket policies purchased for the benefit of the Owners and their respective mortgagees as their interests may appear. To the extent that any contractors are employed by the Association, the Association shall require each such contractor, at such contractor's expense, to maintain in effect workmen's compensation and public liability insurance and to provide the Association with certificates of such insurance coverage prior to the commencement of any work.

Section 6.02 Casualty Insurance. All Lots, including all dwellings and other improvements located thereon, and other insurable improvements upon the Property, including those improvements comprising the common area and all personal property owned by the Association, but excluding improvements and betterments to any Lot or dwelling made by an owner, shall be insured in an amount equal to the full replacement cost thereof, less ordinary deductibles. Such coverage shall afford protection on a replacement cost basis against loss or damage by fire and other hazards normally covered by the standard extended coverage endorsement and such other risks as from time to time customarily shall be covered with respect to projects similar in construction, location and use as the Development, including vandalism and malicious mischief, and, if obtainable and if determined to be economically feasible by the Board of Directors, all perils normally covered by the standard "all risk" endorsement. Such insurance shall be written in the name of the Association and the individual Owners, their respective mortgagees, and any other persons having an interest in the Lots, as their interests may appear. The Board of Directors shall review or cause to be reviewed at least every two (2) years the amount of insurance in effect, taking into account the value and replacement cost of the improvements, and may engage appraisers, cost estimators or others it deems appropriate in connection therewith.

*when  
last  
time*

Section 6.03 Public Liability Insurance. Comprehensive general public liability insurance shall be maintained in such amounts and in such form as shall be required by the Board of Directors, but not in amounts of less than \$500,000.00 for injury, including death, to a single person, \$1,000,000.00 for injury or injuries, including death, arising out of a single occurrence, and \$100,000.00 property damage, covering the Association, all agents and employees of the Association, all Owners, all other persons entitled to occupy any Lot or other portion of the Development, the common area of the Development, and to the extent obtainable, the Board of Directors and officers of the Association.

Section 6.04 Policy Provisions. All insurance policies of the Association shall be written with a company or companies licensed to do business in Georgia, holding a Policy Holder Rating of A-V1 or better. Insofar as permitted by law, and to the extent available and otherwise in compliance with

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the provisions of the Declaration and these By-Laws, such policies shall contain the following terms and conditions:

(a) That such policy shall not be cancelled or substantially modified without at least ten (10) days prior written notice to the Association and to each holder of a first mortgage which is listed as a scheduled holder of a first mortgage in the policy;

(b) That any insurance trust agreement to which the Association is a party shall be recognized;

(c) That the insurance shall not be prejudiced by any act of neglect of individual Owners which is not in the control of the Owners collectively and that the claim of an Owner shall not be denied because of the negligent acts of the Association or other Owners;

(d) That the policy is primary in the event an Owner has other insurance covering the same loss;

(e) That the "no other insurance" clause in the master policy not be applicable to insurance policies obtained by an individual Owners on their contents, improvements and betterments;

(f) That all liability insurance shall contain cross-liability endorsements to cover liability of the Owners as a group to an Owner;

(g) That appropriate certificates with respect to such policy shall be provided to each Owner and each mortgagee;

(h) That the policy shall not be cancellable or invalidated or suspended on account of the conduct of one or more of the individual Owners, or their respective employees, tenants, agents and guests, or on account of the acts of any Director, officer, employee or agent of the Association, without prior written notice to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured; and

(i) That the deductible amount per occurrence shall not exceed \$1,000.00.

Section 6.05 Casualty Insurance Proceeds. All casualty insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to the Association, as trustee for the benefit of the Owners and their respective mortgagees. Notwithstanding anything contained in the Declaration or these By-Laws which may be construed to the contrary, in no event shall any insurance proceeds paid to the Association on account of the occurrence of any casualty be deemed to be common profits. The Board of Directors may engage a bank, trust company or other institution of appropriate financial standing to act as an insurance trustee. The duty of the Association or such insurance trustee shall be to receive such proceeds as are paid to it and hold the same for the purposes elsewhere stated herein or in the Declaration for the benefit of the Owners and their mortgagees.

Section 6.06 Individual Insurance. Each Owner shall obtain insurance at his own expense affording coverage upon any improvements and betterments to his Lot and dwelling which are not covered under insurance maintained by the Association. In the event that such insurance in case of loss results in proration of insurance proceeds between the policy carried by the Association covering such Owner's Lot and a policy carried by the Owner, the proceeds available under the Owner's policy shall be payable to the Association for the

purposes of reconstruction. Any surplus remaining upon completion of reconstruction directly affecting any such Owner shall be paid to the Owner. No Owner shall be entitled to exercise his right to maintain insurance coverage in such a manner as to diminish or affect any recovery or payment which may be realized under any insurance policy carried by the Association.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01 Books and Records. The Association shall keep complete and accurate financial records, minutes of the proceedings of all meetings of the members and of the Board of Directors and such other books, records and financial statements as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association shall keep a record giving the names and addresses of the Directors, of all members of the Association and of the holders of all mortgages on Lots, which shall be furnished by each Lot Owner pursuant to Section 7.06 of these By-Laws. Current copies of the Articles of Incorporation of the Association, these By-Laws, the Declaration, the rules and regulations of the Association and any other rules concerning the Property, with all amendments thereto, shall also be maintained by the Association, and such documents and the books, records and financial statements of the Association shall at all times during normal business hours be subject to and available for inspection, upon request, by any Owner of or lender making a loan on any Lot, or his or its agent or attorney, or by any holder, insurer or guarantor of any mortgage encumbering a Lot.

Section 7.02 Contracts. All agreements and determinations lawfully authorized by the Board of Directors of the Association shall be binding upon all Lot Owners, their heirs, legal representatives, successors, assigns or others having an interest in the Property. The Board of Directors may authorize any officer or officers, or agent or agents of the Association, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of, the Association, and such authority may be general or confined to specific instances.

Section 7.03 Funds of Association. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks or other depositories as the Board of Directors may select. All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by the President or such other officer or officers of the Association or by the managing agent of the Association as may be determined by the Board of Directors.

Section 7.04 Financial Statements. Not later than thirty (30) days after the close of each fiscal year, the Board of Directors shall prepare or cause to be prepared a financial statement showing in reasonable detail the financial condition of the Association as of the close of its fiscal year. (10/15/2015)

Section 7.05 Gifts. The Board of Directors may accept, on behalf of the Association, any contribution, gift, bequest or devise for the general purposes, or for any special purpose of the Association.

Section 7.06 Notices. Each Lot Owner shall be obligated to furnish to the Secretary of the Association the address, if other than the Owner's Lot, to which any notice or demand to the Owner under the Declaration, these By-Laws or law is to be given, and if no address shall have been designated, all such notices or demands shall be mailed or delivered to such Lot. An Owner who mortgages his Lot, or executes and delivers, or assumes or purchases his Lot

subject to, any mortgage which shall be or become a lien on his Lot, shall notify the Secretary of the Association of the name and address of the holder of any such mortgage. Any notice to the Association shall be mailed to the registered office of the Association or to such other address as shall have been designated by the Board of Directors by written notice to the members of the Association.

Section 7.07 Taxes and Insurance Premiums. The Board of Directors shall cause payment to be made, in a timely manner, of all taxes assessed against the common area or Association property and of all insurance premiums. The Board of Directors shall have the authority to enter into agreements with holders of first mortgages on individual Lots to permit such holders to pay past due taxes or insurance premiums owed by the Association subject to an immediate right of such holders to reimbursement by the Association.

Section 7.08 Amendment. These By-Laws may be amended, at a regular or special meeting of the members duly called and held for such purpose by an amendment proposed by the Board of Directors or by petition signed by members having at least thirty percent (30%) of the total vote of the Association. Such amendment must be approved by members of the Association having at least ten (10) of the votes in the Association. Approval of the required number of members to any such amendment shall be evidenced by their execution of the amendment or a written consent thereto, or, in the alternative, by the sworn statement of the President, any Vice President or the Secretary of the Association, in which sworn statement it is stated unequivocally that approval of the required number of members was otherwise lawfully obtained. Any such amendment shall become effective only when recorded or at such later date as may be specified in the amendment itself.

Section 7.09 Indemnification. Each Director of the Association who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, by reason of the fact that he is or was a Director or officer of the Association, shall be indemnified by the Association against those expenses and costs which are allowed by the laws of Georgia and which are actually and reasonably incurred by him in connection with such action, suit or proceeding. Such indemnification shall be made only in accordance with the laws of Georgia and subject to the conditions prescribed therein. To the extent obtainable, the Association shall maintain insurance on behalf of Directors and officers of the Association against all liabilities asserted against and incurred by any such person in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify such Directors and officers against such liabilities under the laws of Georgia.

Section 7.10 Fiscal Year. The fiscal year of the Association shall be that period from March 1 through February 28 or 29 unless another fiscal year is determined by the Board of Directors.

Section 7.11 Severability. Invalidation of any covenant, condition, restriction, provision, sentence, clause, phrase or word of these By-Laws, or the application thereof in any circumstances, shall not affect the validity of the remaining portions thereof or the application thereof to other circumstances, and to this end the provisions of these By-Laws are declared to be severable.

Section 7.12 Interpretation. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other legal entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed. The articles and section

headings and captions are for convenience and reference only and in no way define or limit the scope and content of these By-laws or in any way affect the provisions hereof.

Section 7.13 Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law or the Declaration, the Articles of Incorporation, and these By-Laws, the provisions of Georgia law, the Declaration and the Articles of Incorporation, in that order, shall prevail.

Section 7.14 Definitions. Words used in these By-Laws, which are defined by the Declaration, shall have the same meaning therein specified unless the context shall prohibit or otherwise require or unless such words are otherwise defined herein.

C2 ONE PEACHTREE BATTLE  
(opr2/0084)

BOOK 11556 PAGE 041

CERTIFICATE OF SECRETARY

The undersigned, being the Secretary of One Peachtree Battle Townhouses, Inc., hereby certifies that at a duly called meeting of the members of One Peachtree Battle Townhouses, Inc., held on February 3, 1988, the foregoing Amended and Restated Declaration of Easements, Restrictions and Covenants of One Peachtree Battle Townhouses, amending that Declaration of Easements, Restrictions and Covenants, recorded in Deed Book 8603, Page 293, Fulton County, Georgia Records, was approved by the affirmative vote of ten (10) of the owners of townhouse units of One Peachtree Battle Townhouses, Inc., this Certificate being given as of the 3rd day of February, 1988.

Signed, sealed and delivered  
this 24<sup>th</sup> day of May, 1988,  
in the presence of:

Joyce M. Morgan  
JOYCE M. MORGAN

(CORPORATE SEAL)

Mary M. Miller  
Witness

Edw. A. His  
Notary Public (Affix Date  
of Expiration of Commission  
and Notarial Seal)



R50 ONE PEACHTREE BATTLE

BOOK 11556 PAGE 042

ONE PEACHTREE BATTLE TOWNHOUSE ASSOCIATION, INC.

GENERAL RULES

1. All complaints regarding the common areas or actions of other owners or guests shall be made in writing to the Board of Directors, c/o Perry Realty Services, Inc., 6135 Barfield Road, Suite 124, Atlanta, Georgia, 30328-4377.
2. Owners and/or occupants are requested to be considerate and thoughtful of all occupants of townhouses. Rights, conveniences and comfort of all townhouse occupants shall be respected at all times. Each owner shall be responsible for the conduct and actions of all occupants or guests. Any resulting damage shall be repaired at the expense of the owner.
3. To preserve and enhance the overall general appearance of the complex, each owner or occupant of a townhouse shall keep it in a good state of preservation and cleanliness. Towels, rugs, rafts, boats and hoses cannot "decorate" balconies, decks, fences, cars or walls. Miscellaneous pots, discarded plants, seedling containers, wooden or tin tubs and other debris cannot be placed either in the front or rear of the townhouse.
4. Owners and/or occupants cannot plant any flowers or place any containers on the front of the townhouses effective September, 1986. Our landscaping service will provide flowers both Spring and Fall so that there will be a pleasing uniformity.
5. All garbage and refuse from townhouses must be stored with care in the Herbie-Curbies and placed at the front of each garage ONLY on the mornings of garbage collection service. Owners and/or occupants must place their emptied containers inside their respective garages as soon as possible after the service has been completed. If you are going to be out-of-town, arrange for your neighbor to do this for you.
6. Fulton County enforces the "leash law" -- All pets must be on leash at all times. One Peachtree Battle Townhouse Association guidelines concur.

Insofar as our townhouse grounds are limited, pet owners must adhere to the following rules regarding their animals:

- a) take pets to park for relief purposes or
- b) Take pets to respective owner's "backyard area" or
- c) Use a "pooper-scooper"

Pets shall not be allowed to relieve themselves on the flowers, in the shrubbery beds or grassy areas.

Our landscaping service says pets' disposals destroy plants. Owners and/or occupants are legally responsible for the actions of their pets and any damage they may cause to common areas.

7. Automobile, Parking, Speed Limit, Etc.

Each townhouse owner is provided with two (2) parking spaces in front of their respective garages. Other cars or guest cars shall not occupy the space provided for other townhouse owners without the consent of the owners.

There is limited parking for guests in front of the townhouse complex. No one can leave cars parked overnight in the cul-de-sac. If you have more than four automobiles stationed at your townhouse for longer than a few hours, you must inform your guests of our rules and request that they park on the street.

Except in emergencies, no automobile cleaning or repair shall be permitted in the common areas after four o'clock on Saturday and Sunday.

The speed limit within the complex is 10 mph.

Emergency vehicles must have constant and easy access to all townhouses.

Owners and/or occupants cannot prevent other owners egress and ingress either into the complex or their private dwellings.

Motorscooters, trucks, trailers, boats, campers, vans and automobiles under repair shall not stand in the common areas overnight.

8. Any alteration by any owner to the exterior design of his/her undertaken only on the approval of the Board. (Section 9, By-Laws and Item 13, Declaration of Easements, Restrictions and Covenants)

Any exterior alteration which the homeowners feels will not change the exterior design shall be submitted, in writing, to the Board of Directors.

Townhouse owners and/or occupants are not permitted to change the exterior color of their respective townhouses or any part thereof. This stipulation would include "going darker or lighter" on decks, porches, railings, stairs, etc.

One Peachtree Battle Townhouse Association, Inc.  
General Rules  
Page Three

Sign Provision: Homeowners maynot "erect, place or post any sign, object, light or thing on the exterior of the buildings or any other common element".

9. All plantings by individual homeowners must be approved by Board of Directors. This would ont include the townhouses whose patios are not visible. Such approval shall not be unreasonably withheld.

Under no circumstances shall any homeowner or occupant cut down any trees without express permission of the Board of Directors. The Association will regularly (annually) have a tree expert prune and care for our trees in order to keep them in a healthy condition, and make expert recommendations regarding any "thinning out" of brush or trees.

10. All curtains, drapes, blinds and other window treatments will be either white or off-white or lined white or off-white to ensure continuity of the exterior appearance of the buildings.

Any homeowner and/or occupant in violation of these rules, or any part thereof, may be fined up to \$25.00 per occurance and/or \$25.00 per day for continued violation of the same rule, or part thereof.

These regulations may be added to, amended, or repealed at any time by the Board of Directors; provided, however, that copies of such actions shall be given to all One Peachtree Battle Townhouse owners.