

BOOK 679 PAGE 574

EXHIBIT "D"

BY-LAWS
OF
TOWNE LAKE RESIDENTIAL OWNERS ASSOCIATION, INC.

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OF

TOWNE LAKE RESIDENTIAL OWNERS ASSOCIATION, INC.

Article I

Name, Membership, and Definitions

Section 1. Name. The name of the Association shall be Towne Lake Residential Owners Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Membership. Provisions regarding membership in the Association are fully set forth in the Master Declaration of Protective Covenants for Towne Lake Residential Area (this Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 3. Definitions. The words used in these ByLaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article II

Association: Meetings, Voting, Proxies, Quorum

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

Section 2. First Meeting and Annual Meetings. An annual or special meeting of the Association shall be held within one (1) year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur no later than sixty (60) days after the close of the Association's fiscal year. If the day for the annual meeting is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday (excluding Saturday and Sunday). Meetings shall be of the Voting Members or their alternates.

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so

directed by resolution of a Majority of the Board or upon a petition signed by Voting Members representing at least twenty-five (25%) percent of the total Association vote entitled to vote thereon. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to each Voting Member a notice of each annual or special meeting of the Association stating the purpose of the special meeting, as well as the time and place where it is to be held. If a Voting Member wishes notice to be given at an address other than his or her Unit, he or she shall designate by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice so long as Article VI, Section 4 of the By-Laws is complied with. In addition to serving notice as provided above, or as an alternative thereto, the Board may serve notice of an annual or special meeting by publishing notice in a newspaper or newsletter circulated within the Community. The date of publication shall be the date that notice is served. Notices shall be served not less than ten (10) nor more than fifty (50) days before a meeting.

Section 5. Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Voting Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by a Voting Member, or his or her alternate, shall be deemed waiver by such Voting Member of notice of the time, date, place, and purpose thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Voting Members or their alternates (or Owners or their proxies, if the meeting is one at which a vote of the Owners is to be taken) representing a Majority of the Association vote present at the meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 7. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting

rights are specifically incorporated herein. As to any matter which the Declaration, these By-Laws, the Articles of Incorporation or state law specifically requires a vote of Owners rather than the Voting Members, unless a vote on any question is required by law or is required by the Declaration or By-Laws to be taken at a meeting (in which case a meeting shall be called and proxies shall be sent to all Owners entitled to vote on the issue(s) to be decided at the meeting), elections and other matters requiring a vote of the Owners rather than the Voting Members shall be submitted on a ballot or ballots to the Owners in referendum by mail or at polling places in the Community. Ballots shall be returned to the Secretary by the date specified on the ballot. The Board shall determine the method of voting, the form of all ballots, the wording of questions thereon and the deadline for return of ballots. It shall designate the number and location of polling places, if any. The Board may include on any ballot questions on which it seeks an advisory vote. Members may suggest questions for an advisory vote which shall be evaluated by the Board for consistency with the exercise of its duties and responsibilities. In any advisory vote, each such question on a ballot shall indicate that the vote is for advisory purposes only. Notice of referenda shall be given in the same manner as notice of meetings. Owners shall elect directors pursuant to Article III by referendum.

Section 8. Proxies. Voting Members may not vote by proxy, but only in person or by alternate. Owners may vote in person or by proxy on any issue requiring a vote of the Owners at a meeting, provided the proxy is in writing, dated, signed and filed with the Secretary before the appointed time of such meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his Unit, upon receipt by the Secretary of notice of the death or judicially declared incompetence of an Owner, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. The presence of Voting Members or their alternates (or in the case of a meeting where a vote of the Owners is to be taken, the presence, in person or by proxy, of Owners) representing at least twenty-five (25%) percent of the votes entitled to be cast on the issue(s) before the meeting shall constitute a quorum at all meetings of the Association. The Voting Members or Owners, as applicable, present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members or Owners, as applicable, to leave less than a quorum, so long as any action taken thereafter is approved by Voting Members

representing at least a Majority of the votes required to constitute a quorum. The quorum for a referendum shall be twenty-five (25%) percent of the votes of Members entitled to vote thereon, except that there shall be no quorum requirement for advisory votes.

Section 10. Action Without A Formal Meeting. Any action to be taken at a meeting of the Voting Members may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the Voting Members.

Article III
Board of Directors

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, all directors shall be Members or spouses of such Members; provided, however, no Person and his or her spouse may serve on the Board at the same time. In the case of a Member which is a corporation or partnership, the person designated by the Member in writing to the Secretary to exercise the membership rights of such Member shall be eligible to serve on the Board of Directors.

Section 2. Directors Appointed by Declarant. Subject to Section 5 below, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the expiration of seven (7) years after the date of the recording of the Declaration; (b) three (3) months after the date on which seventy-five (75%) percent of the Units permitted by applicable zoning for the property described on Exhibits "B" and "C" of the Declaration have been conveyed by Declarant; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of property within the Community, vests in Declarant such authority to appoint and remove directors and officers of the Association. The directors selected by the Declarant need not be Owners or Occupants in the Community. The names of the initial directors selected by the Declarant are set forth in the Articles of Incorporation of the Association.

Section 3. Number of Directors. The initial Board shall consist of three (3) members. The Board shall be increased to five (5) members as provided in Section 5 of this Article.

Section 4. Nomination of Directors. Elected directors shall be nominated from the floor and may also be nominated by a Nominating Committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications and to solicit votes.

Section 5. Election and Term of Office. Elected directors shall be elected by referendum. Cumulative voting is not permitted. Those candidates receiving the largest number of votes shall be elected. In the case of a tie vote, the winner shall be determined by the flip of a coin.

Notwithstanding any other provision contained herein:

(a) Within thirty (30) days after the time that twenty-five (25%) percent of the Units permitted by applicable zoning for the property described on Exhibits "B" and "C" of the Declaration have been conveyed by Declarant, or whenever the Declarant earlier determines, the Association shall hold a referendum by which the Owners other than Declarant shall elect one (1) of the three (3) directors. The remaining two (2) directors shall be appointees of the Declarant. The director elected by the Owners shall not be subject to removal by the Declarant acting alone and shall be elected for a term of two (2) years or until the happening of the events described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the events described in subsection (b) below, a successor shall be elected for a like term.

✓ (b) Within thirty (30) days after the time that fifty (50%) percent of the Units permitted by applicable zoning for the property described on Exhibits "B" and "C" of the Declaration have been conveyed by Declarant, or whenever the Declarant earlier determines, the Board shall be increased to five (5) directors. The Association shall hold a referendum by which the Owners other than Declarant shall elect two (2) of the five (5) directors. The remaining three (3) directors shall be appointees of the Declarant. The directors elected by the Owners shall not be subject to removal by the Declarant acting alone and shall be elected for a term of two (2) years or until the happening of the events described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the events described in subsection (c) below, successors shall be elected for a like term.

(c) Within ninety (90) days after the time that seventy (75%) percent of the Units permitted by applicable zoning for the property described on Exhibits "B" and "C" of

the Declaration have been conveyed by Declarant, or whenever the Declarant earlier determines, the Board shall be increased to five (5) directors. The Association shall hold a referendum by which Owners other than Declarant shall elect two (2) of the five (5) directors. The remaining three (3) directors shall be appointees of the Declarant. The directors elected by the Owners shall not be subject to removal by the Declarant acting alone and shall be elected for a term of two (2) years or until the happening of the events described in subsection (d) below, whichever is shorter. If such directors' terms expire prior to the happening of the events described in subsection (d) below, successors shall be elected for a like term.

(d) Within fifteen (15) days prior to the first annual meeting after the occurrence of the events described in subsection (d) above and within fifteen (15) days prior to each annual meeting of the Association thereafter, a referendum shall be held by which all directors shall be elected by the Owners. Directors shall be elected to serve a term of two (2) years or until their successors are elected and take office. At the expiration of the initial term of office of each member of the Board of Directors, a successor shall be elected to serve for a term of two (2) years. Directors may be elected to serve any number of consecutive terms.

Directors elected by the Owners prior to the time that the Declarant's right to appoint directors and officers terminates shall be elected solely by votes attributable to Units other than Units owned by Declarant and shall take office at the next succeeding Board meeting.

Section 6. Removal of Directors. At any regular or special meeting of the Association duly called, any one (1) or more of the members of the Board may be removed, with or without cause, by Voting Members representing a Majority of the total Association vote entitled to vote thereon and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Voting Members shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than three (3) calendar months may be removed by a Majority vote of the directors at a meeting, a quorum being present. This Section shall not apply to directors appointed by Declarant, nor shall votes attributable to Units owned by Declarant be counted to remove a director elected by votes other than those held by Declarant.

Section 7. Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a

director by vote of the Voting Members, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each director so selected shall serve the unexpired portion of the term.

B. Meetings.

Section 8. Organization Meetings. The first meeting of the members of the Board of Directors following each election shall be held within five (5) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a Majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

Section 10. Special Meetings. Special meetings of the Board shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a Person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph company must be received at least forty-eight (48) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting cannot be held because a quorum is not present, a Majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time that the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by a Majority of the total Association vote entitled to vote thereon. Directors may be reimbursed for their actual out-of-pocket expenses necessarily incurred in connection with their services as directors.

Section 14. Open Meetings. All meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

Section 15. Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 16. Action Without A Formal Meeting: Conference Call Meetings. Any action to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors. A member or members of the Board may participate in a meeting of the Board by means of conference telephone or similar communications equipment, provided all Persons participating in the meeting can hear each other. Such participation shall constitute presence in person at such meeting.

C. Powers and Duties.

Section 17. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles of Incorporation, or these By-Laws directed to be done and exercised exclusively by the Members. In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Association Expenses;

(b) making assessments to defray the Association Expenses and other assessments authorized by the Declaration, establishing the means and methods of collecting such assessments, and establishing the period of payment for assessments;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association as determined by the Board, including maintenance or provision of services which are generally provided by a municipality, such as maintenance of grassed or landscaped areas along dedicated rights-of-way, maintenance of street lights and community signage, and garbage pick-up;

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

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

(f) making and amending use restrictions, rules and regulations, and design guidelines;

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

(h) enforcing by legal means the provisions of the Declaration, any Parcel Declaration, these By-Laws, and the use

restrictions, rules and regulations, and design guidelines adopted pursuant to any of the foregoing, and bringing any proceedings which may be instituted on behalf of or against the Owners or Occupants concerning the Association;

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

(j) providing services to all areas that the Association is obligated to provide services for;

(k) paying the cost of all services, if any, rendered to the Association or its Members which are not directly chargeable to Owners of particular Units;

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

(m) depositing Association funds into interest bearing accounts; and

(n) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements and other agreements with trusts, condominium associations, or other associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

To the extent permitted by law, the Board shall have the power to delegate its functions to designees of the Board such as, without limitation, a management agent, committees established by the Board, and employees and independent contractors of the Association.

Section 18. Management Agent. The Board may employ for the Association a management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Declarant or an affiliate of the Declarant may be employed as management agent. The term of any management agreement shall not exceed three (3) years and shall be subject to termination by either party, without cause and without penalty, upon not more than ninety (90) days' written notice.

Section 19. Borrowing. The Board shall have the power to borrow money for the purpose of repair or restoration of the Common Property and facilities without the approval of

the Members of the Association; provided, however, the Board shall obtain approval of the Voting Members in the same manner as for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed Fifty Thousand (\$50,000.00) Dollars outstanding debt at any one time.

Section 20. Fining Procedure. The Board shall not impose a fine (a late charge shall not constitute a fine) unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

(i) the alleged violation;

(ii) the action required to abate the violation;
and

(iii) a time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a fine, if the violation is not continuing. The Board or its designee may demand immediate abatement in such circumstances which, in the Board's determination, pose a danger to safety or property.

(b) Notice. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation recurs, the Board may, upon notice, impose a fine. The notice shall state:

(i) the nature of the alleged violation;

(ii) that the alleged violator may, within ten (10) days from the date of the notice, request a hearing regarding the fine;

(iii) that any statements, evidence, and witnesses may be produced by the alleged violator at the hearing; and

(iv) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

(c) Hearing. If a hearing is requested, it shall be held before the Board in executive session, and the alleged violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing.

Article IV
Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, except the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board. Other officers may be members of the Board or Members of the Association, provided this limitation shall not apply during the period in which the Declarant is entitled to appoint directors under Article III, Section 2 of these By-Laws.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board at the organizational meeting of the Board. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term. Officers shall serve until their successors have been elected.

Section 3. Removal. Any officer may be removed by the Board whenever, in its judgment, the best interests of the Association will be served thereby.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

Section 5. Vice President. The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board and shall have charge of such books and papers as the Board may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law.

Section 7. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping or causing to be kept full and accurate financial records and books of account showing all receipts and disbursements, for preparing or causing to be prepared all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article V Committees

Section 1. General. In addition to the committees established in the Declaration, committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board designating the committee or with rules adopted by the Board. If available, the Board shall obtain liability insurance covering the members of each committee and the Association for the activities of such committees.

Section 2. Covenants Committee. The Board may establish a Covenants Committee to advise the Board regarding violations of the Declaration, By-Laws, rules and regulations, use restrictions and design guidelines. This Committee shall also advise the Board regarding sanctions to be imposed for such violations.

Section 3. Architectural Review Committee. The Board shall establish an Architectural Review Committee to carry out the functions provided for such committee in the Declaration.

Section 4. Citizens Advisory Committees. The Board may establish a Citizens Advisory Committees to advise the Board and other committees.

Article VI
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 2. Parliamentary Rules. Robert's Rules of Order (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, these By-Laws, or a ruling made by the Person presiding over the proceeding.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, then the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Notices. Unless otherwise specified in the Declaration or By-Laws, all notices, demands, bills, statements, or other communications required or permitted to be sent under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by first class mail, postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the last known address of the Member or Voting Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members.

If there are multiple Owners of a single piece of property, notice to one (1) shall be deemed notice to all. Multiple Owners may designate one (1) Owner as the Person entitled to receive notice of Association matters by so notifying the Association in writing.

Section 5. Amendment. The provisions of the Declaration applicable to amendment of that instrument shall apply to any amendment to these By-Laws.

1528g

DECLARATION OF EASEMENTS AND COVENANTS TO SHARE COSTS

THIS DECLARATION is executed this _____ day of _____, 19____, by West Mill Joint Venture, a Texas joint venture, composed of L.D.J. Development Co., a Texas corporation, and LDJ Construction Co., a Texas corporation ("Declarant");

BACKGROUND STATEMENT

Declarant is the owner (or, if not the owner, Declarant has obtained the written consent of the owner(s) to this Declaration) of all that property which is subject to that certain Master Declaration of Protective Covenants for Towne Lake Residential Area recorded or to be recorded contemporaneously herewith in the Cherokee County, Georgia land records (such declaration is referred to herein as the "Master Residential Declaration" and such property, together with the property that may from time to time be subjected to the Master Residential Declaration is herein referred to as the "Residential Property"). Declarant is also the owner (or if not the owner, Declarant has obtained the written consent of the owner(s) to this Declaration) of all that property which is subject to that certain Declaration of Protective Covenants for Towne Lake Commercial Area recorded or to be recorded contemporaneously herewith in the Cherokee County, Georgia land records (such Declaration is herein referred to as the "Commercial Declaration," and such property, together with the property that may from time to time be subjected to the Commercial Declaration, is herein referred to as the "Commercial Property"). Declarant desires to provide for maintenance of certain property benefitting both the Residential Property and the Commercial Property, as is more fully described herein, and for an equitable allocation of the costs of such maintenance between Towne Lake Residential Association, Inc. ("Residential Association") and Towne Lake Commercial Owners Association, Inc. ("Commercial Association"). Declarant also desires to provide an easement for access by the Commercial Association over and through the Residential Property to the extent necessary to perform its maintenance responsibilities hereunder.

NOW, THEREFORE, Declarant hereby declares that all of the Residential Property and all of the Commercial Property, (hereinafter collectively referred to as the "Properties") shall be held, sold and conveyed subject to the easements,

restrictions, covenants and conditions contained herein, which shall run with the title to the real property submitted to this Declaration and shall bind all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of each owner of any part thereof.

Article I
Easement

Subject to the provisions of this Declaration, Declarant does hereby grant and convey to the Residential Association, its officers, directors, employees, agents and designees, a non-exclusive easement appurtenant to the Residential Property over the Commercial Property for the purpose of maintaining, repairing and replacing the Maintenance Property (as defined below) in accordance with this Declaration.

THE CONTINUED EXISTENCE OF THIS EASEMENT IS EXPRESSLY MADE SUBJECT TO THE CONDITIONS AND RESTRICTIONS CONTAINED HEREIN WHICH SHALL CONSTITUTE COVENANTS RUNNING WITH THE TITLE TO, AND BOTH BENEFITTING AND BURDENING, THE COMMERCIAL PROPERTY AND THE RESIDENTIAL PROPERTY.

Article II
Maintenance and Repair

Section 1. Maintenance Responsibility. The Residential Association shall maintain, repair, preserve, replace, protect, and operate the Maintenance Property in accordance with the standards established in the Residential Declaration. The Maintenance Property shall specifically include: (i) all grass, landscaping and structures which comprise a part of any entry features for the Properties (except that entry features for any Parcel, as defined in the Master Residential Declaration, located within the Properties shall not be Maintenance Property); (ii) ~~street signage and street lights along Towne Lake Parkway, Rose Creek Drive~~ and ~~_____~~ (iii) grass and other landscaping of medians and rights-of-way along Towne Lake Parkway, Rose Creek Drive and ~~_____~~ and (iv) such other property as may be designated by Declarant as Maintenance Property in an amendment to this Declaration or an amendment subjecting property to the Commercial Declaration or the Master Residential Declaration. This maintenance responsibility shall include, but shall not be limited to, year-round maintenance of living plants in any area requiring landscaping; replacement of dead plants within a reasonable period of time after they die; cleaning, sweeping and picking up debris on the Maintenance

Property; and maintenance, repair and replacement of street lights, street signage and entry features; all in accordance with the Community-Wide Standard established pursuant to the Master Residential Declaration and the Commercial Declaration.

Section 2. Insurance. The Residential Association shall insure against claims for bodily injury and property damage occurring on or about the Maintenance Property in accordance with the standards for insurance established in the Master Residential Declaration. Such insurance shall name the Commercial Association as an additional insured.

Section 3. Remedy Upon Failure to Maintain. The Commercial Association shall have the right to bring suit at law or in equity to enforce the obligations of the Residential Association under this Declaration.

Article III
Obligation To Share Costs

Section 1. Responsibility for Assessments. The Commercial Association shall pay to the Residential Association an annual assessment to cover a portion of the costs, including insurance, incurred by the Residential Association in performing its obligations under Article II of this Declaration. The obligation to pay this assessment shall be mandatory, whether or not the Commercial Association agrees with or is satisfied with the manner and extent of performance by the Residential Association, the Commercial Association's sole remedy being that provided in Article II, Section 3 above.

Section 2. Computation of Assessments. On an annual basis, the Residential Association shall determine an estimated budget for performing its maintenance obligations under this Declaration during the upcoming year, including an appropriate amount to be placed in a reserve fund for capital repairs and replacements. Such budget shall be adjusted to reflect any excess or deficiency in the budget assessed for the immediately preceding year, as compared to actual expenses for that period. The Commercial Association's share of such budget shall be determined by the following formula:

$$\frac{\text{Total Acreage Of Commercial Property} \times 5}{(\text{Total Acreage of Commercial Property} \times 5) + (\text{Total Acreage of Residential Property})} \times \text{Budget} = \text{Commercial Assessment}$$

For purposes of this formula, the total acreage of the Residential Property and the total acreage of the Commercial Property shall be determined as of the date the budget is adopted. The Residential Association may not, without the consent of declarant (so long as any declarant owns any property primarily for development and/or sale in the Residential Property or Commercial Property or subject to annexation by such declarant to the Master Residential Declaration or Commercial Declaration) and the vote or written consent of at least a majority of the Commercial Association vote entitled to vote thereon, impose an annual assessment on the Commercial Association which is more than one hundred ten (110%) percent of the annual assessment for the immediately preceding fiscal year.

Section 3. Payment of Assessments. Within thirty (30) days of receipt of notice of an annual assessment, the Commercial Association shall pay to the Residential Association the entire amount due. Any assessment delinquent for a period of more than thirty (30) days shall incur a late charge in such amount as the Residential Association may from time to time determine to be reasonable. If the assessment is not paid when due, a lien, as herein provided, shall attach to the Common Property (as defined in the Commercial Declaration) of the Commercial Association and, in addition, the lien shall include the late charge, interest (at the maximum lawful rate) on the principal amount due and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after ninety (90) days, the Residential Association may institute suit to collect such amounts and to foreclose its lien. The lien provided for in this Article shall be in favor of the Residential Association and shall be for the benefit of all its members. The Residential Association, acting through its board of directors and on behalf of its members, shall have the power to bid at any foreclosure sale or to acquire, hold, lease, mortgage, or convey foreclosed property.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Article IV General

Section 1. Notice. Any notice provided for in this Declaration shall be served personally or shall be mailed by registered or certified mail to the president or secretary of

the Commercial Association or the Residential Association, respectively. All such notices shall, for all purposes, be deemed delivered (a) upon personal delivery to the president or secretary of the respective association; or (b) on the third (3rd) day after mailing when mailed by registered or certified mail, postage prepaid, and properly addressed.

Section 2. Recordkeeping. The Residential Association shall maintain or cause to be maintained full and accurate books of account with respect to its management, maintenance, and operation of the properties described in Article II. Such books and records and financial statements related thereto shall be available for inspection and copying by the Commercial Association, upon request, during normal business hours or under other reasonable circumstances. Copying charges shall be paid by the Commercial Association. Within a reasonable time after the end of each fiscal year, the records, including all supporting materials (e.g., check copies, invoices, etc.), for the year ended, shall be made available to the Commercial Association. If the Commercial Association desires to have the records audited, it may do so at its own expense, and the Residential Association shall cooperate with the party performing the audit. If the amount of actual expenses for the preceding year is disputed after audit, the Commercial Association and the Residential Association shall cause a second audit to be performed by a mutually acceptable auditor and the decision of the second auditor shall be binding. If the amount as determined by the second auditor varies from the amount asserted by the Residential Association by more than fifteen (15%) percent of the amount asserted, then the Residential Association shall pay the entire cost of the second auditor. If the amount as determined by the second auditor varies from the amount asserted by the Residential Association by less than five (5%) percent of the amount asserted, then the Commercial Association shall pay the entire cost of the second auditor. Otherwise, the cost of the second auditor shall be shared equally by both associations.

Section 3. Indemnification. The Residential Association shall indemnify and hold harmless the Commercial Association, its officers, directors, employees and agents against and from all claims, demands, actions, and rights of action against the Commercial Association which shall or may arise by virtue of anything done or omitted to be done by the Residential Association (through or by agents, employees or other representatives) outside the scope of, or in breach of the terms of, this Declaration, provided that the Residential Association shall be promptly notified of the existence of the claim, demand, action or right of action and shall be given reasonable opportunity to participate in the defense thereof.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Properties subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any portion of the Properties subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on any portion of the Properties subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any owner's property unless any such owner shall consent thereto in writing. Further, so long as the declarant(s) of the Master Residential Declaration or Commercial Declaration, or either of them, has an option unilaterally to subject additional property to either of those instruments as provided in those instruments, such declarant(s) may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially and adversely affect the substantive rights of any owner or occupant hereunder, nor shall it adversely affect title to the property of any owner without the consent of the affected owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the directors of the Residential Association and a majority of the directors of the Commercial Association and, so long as the declarant(s) of the Master Residential Declaration or Commercial Declaration, or either of them, has an option unilaterally to subject additional property to either of those instruments as provided in those instruments, the consent of such declarant(s). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein.

Any procedural challenge to an amendment must be made within six (6) months of its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

Section 5: Duration. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect for a period of twenty (20) years after the

date that this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless such extension is disapproved by at least a majority of the directors of the Residential Association and a majority of the directors of the Commercial Association, and, so long as the declarant(s) of the Residential Declaration and the Commercial Declaration, or either of them, has an option unilaterally to subject additional property to either of those instruments as provided in those instruments, the consent of such declarant(s). Every purchaser or grantee of any interest in any real property subject to the Master Residential Declaration or the Commercial Declaration, by acceptance of a deed or other conveyance therefor, agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 6. Binding Effect. This Declaration shall be binding upon and shall inure to the benefit of every owner of any portion of the Properties.

Section 7. Interpretation. This Declaration shall be governed by and construed under the laws of the State of Georgia.

Section 8. Compliance With Governmental Authority. Every owner of any portion of the Properties agrees to comply with all laws, ordinances, statutes, rules and regulations of any governmental authority relating to the use, condition, or maintenance of the property described in Article II, and in the event that any expense is required to affect such compliance, such expense shall be considered a general maintenance expense for which the cost shall be shared on the same basis as provided in Article III.

Section 9. Waiver. No failure of the Commercial Association or the Residential Association to exercise any power given the Commercial Association or the Residential Association hereunder or to insist upon strict compliance by the other with its obligations hereunder and no custom or practice at variance with the terms hereof shall constitute a waiver of the right to demand exact compliance with the terms hereof.

Section 10. Preparer. This Declaration was prepared by Hyatt & Rhoads, P.C., 2400 Marquis One Tower, 245 Peachtree Center Avenue, N.E., Atlanta, Georgia 30303.

Section 11. Perpetuities. 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