

BY-LAWS

OF

**THE CLIFTON HEIGHTS
CONDOMINIUM ASSOCIATION, INC.**

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OF
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CONDOMINIUM ASSOCIATION, INC.

Article I Name, Principal Office, and Definitions

1.1. Name. The name of the corporation is The Clifton Heights Condominium Association, Inc., (the "Association").

1.2. Principal Office. The principal office of the Association shall be located in Atlanta, Dekalb County, Georgia. The Association may have such other offices, either within or outside the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Application. The provisions of these Bylaws are applicable to Clifton Heights which is located in Dekalb County, Georgia. All present and future Owners and their tenants, future tenants, employees and any other Person who might use the facilities of Clifton Heights in any manner are subject to these Bylaws and that certain Declaration of Condominium for Clifton Heights, A Condominium (the "Declaration") recorded in the public records of Dekalb County, Georgia. The mere acquisition or lease of any Unit in the community will signify that the acquirer or tenant accepts, ratifies and agrees to comply with these Bylaws.

1.4. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration, unless the context indicates otherwise.

Article II Association: Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. The Association shall have one class of membership as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held within the Properties or at such other suitable place as the Board may designate.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. The Board shall set subsequent regular annual meetings so as to occur at least 30 days but not more than 120

days before the close of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of a Board majority or upon a petition signed by Persons representing at least 15% of the total vote of the Association.

2.5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members and a copy of the agenda for the meeting shall be delivered, either personally or by mail, to each Owner entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or Persons calling the meeting.

The meeting notice and agenda shall state the purpose or purposes for which the meeting is called, specific issues or items to be addressed, including the general nature of any proposed amendments to the Declaration or these By-Laws, any budgetary changes, any fees or assessments which the Association proposes to impose or increase, and any proposal to remove an officer or Board member, as applicable. Such notice shall also notify the Members that they have a right to receive a copy of the minutes of the meeting (subject to a reasonable cost imposed by the Association for making such a distribution) and that they have a right to speak at the meeting (subject to reasonable time limitations). The agenda for the meeting should clearly describe those items on which action may be taken at the meeting and, for each such action, provide for a period of time for Member comment and discussion. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Owner at his or her address as it appears on the records of the Association for receipt of such notices, postage prepaid.

2.6. Waiver of Notice. Any Member may, in writing, waive notice either before or after such meeting. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. A Member's attendance at a meeting shall be deemed such Member's waiver of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. Members may vote at a meeting by voice vote or ballot or may vote by mail or other means of modern communication not prohibited by Georgia law, and as the Board determines. Unless otherwise provided, all voting shall be subject to the quorum requirements of Section 2.11 of these By-Laws.

2.9. Proxies. On any matter as to which a Member is entitled personally to cast the vote for his or her Unit, such vote may be cast in person or by proxy, subject to the limitations of Georgia law relating to the use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. All proxies shall be in writing specifying the Unit for which it is given, signed by the Member or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable upon actual notice to the individual presiding over a meeting of the Association. A proxy shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or one year from the date of the proxy, unless a shorter period is specified in the proxy.

2.10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of Persons representing 50% of the total votes of the Association shall constitute a quorum at all meetings of the Association, and for such other purposes as a quorum may be required under the Declaration, these By-Laws, or Georgia law.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings. An Owner may attend any meeting of the Association Owners and shall be permitted to speak at any such meeting; provided, however, the Board may establish reasonable limitations on the time each Owner may speak at these meetings.

within 30 days after any meeting of the Members, the Secretary shall make available a copy of the minutes to the Members (subject to a reasonable cost imposed by the Association for making and distributing copies).

2.13. Action Without a Meeting. Unless otherwise prohibited by Georgia law, any action required or permitted by law to be taken at a meeting of the Members may be taken by written consent or by ballot cast by mail without a meeting, in accordance with the following procedure:

(a) The Secretary shall send written notice of the proposed action for which consent is requested to each Member entitled to vote thereon at least 10 days prior to the deadline for returning the ballot or consents. The notice shall be accompanied by a ballot or consent form (i) describing the proposed action, (ii) providing a place to indicate, in the case of a ballot, how the Member's vote is to be cast, or in the case of a consent, the Member's approval or disapproval of, or consent to the proposed action, (iii) providing a method of identifying the Member and the Unit(s) for which the ballot is cast or consent is given, and in the case of a consent, a place for the Member's signature, and (iv) indicating the address to which completed forms should be returned and the deadline for returning them, if any.

(b) The proposed action shall be deemed approved if ballot approving the action or consents are received from Members holding at least a majority of the total votes entitled to be cast, unless a greater percentage of votes is required under the Governing Documents or Georgia law for such action, in which case such greater percentage of votes shall be required to approve the action. Such ballot or consents shall have the same force and effect as a vote of the Members at a meeting. Ballot or consents shall be filed with the minutes of the Association. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote, fairly summarizing the material features of the authorized action.

2.14. Telephonic Participation. One or more Members may participate in and vote during any regular or special meeting of the Members by telephone conference call, fiber optics, or similar communication equipment by means of which all Persons participating in the meeting can hear each other at the same time, and those Members so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Association.

Article III Board of Directors: Number, Powers, Meetings

1. Composition and Selection.

3.1. Governing Body: Composition. The affairs of the Association shall be governed by the Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by Declarant during the Declarant Control Period, the directors shall be Members or Occupants; provided, however, Owner and Occupants representing the same Unit may not serve on the Board at the same time. Directors appointed by Declarant need not be Members of the Association, nor Owners or Occupants. In the case of a Member which is not a natural person, any individual authorized by such Member by written notice to the Association shall be eligible to serve

as a director; provided, however, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Declarant. Notwithstanding the above, after the Declarant Control Period, at least a majority of the directors shall be Members.

3.2. Number of Directors. The Board shall consist of three to seven directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3. Directors During Declarant Control Period. Subject to the provisions of Section 3.5, the Declarant shall appoint and remove directors in its sole discretion during the Declarant Control Period. The Declarant Control Period shall terminate upon the first to occur of the following:

(a) the date that Declarant has conveyed to Home Owners Units which represent at least 80% of the undivided common interest in the Common Elements; or;

(b) three years after the Declaration's Recording date.

Nothing in this Section shall preclude Declarant from voluntarily relinquishing control of the Board earlier than required by this Section, and in such event, Declarant reserves the right to disapprove actions of the Association as provided in Section 3.19 until such time as the Declarant Control Period would have otherwise expired under this Section.

Within 30 days after Owners other than Declarant are entitled to elect a majority of the Board members pursuant to this Section, the Declarant shall deliver to the Association all personal property of the Owners and the Association which Declarant holds or controls.

3.4. Nomination.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which all eligible persons who have an interest in serving as a director may file as a candidate for such positions. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient, and cost-effective manner.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

(b) Election Procedures. Each Member may cast the votes attributable to his or her Unit for each position to be filled. There shall be no cumulative voting, and the number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5 Election and Term of Office. Notwithstanding any other provision of these By-Laws:

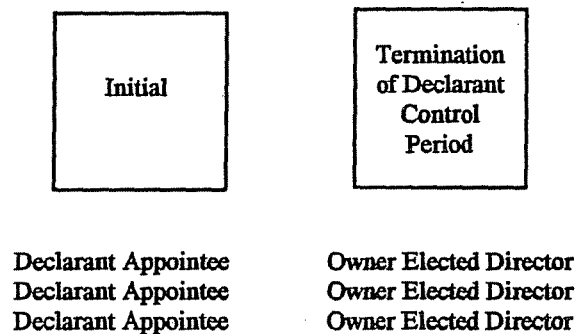
Within 60 days after termination of the Declarant Control Period, three directors shall be

elected by the Owners (including the Declarant as a Unit Owner) to replace the previously appointed and elected directors. The directors shall be elected to serve a term of two years.

Upon the expiration of term of office of each director elected by the Owners, the Owners shall elect a successor to serve a term of two years. Directors elected by the Owners shall hold office until their respective successors have been elected. Director(s) appointed by Declarant shall serve at Declarant's discretion and may be removed and replaced by Declarant at any time with or without cause.

The following diagram depicts the Board composition at various stages of community development:

**COMPOSITION OF BOARD OF
THE CLIFTON HEIGHTS
CONDOMINIUM ASSOCIATION, INC.**



3.6. Removal of Directors and Vacancies. Any director elected by the Owners may be removed, with or without cause, by the vote of Owners holding two-thirds of the votes entitled to be cast for the election of such director at any meeting of the Association at which a quorum is present. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Owners entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Owners who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director elected by the Owners, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Owners shall elect a successor for the remainder of the term. In the event of the death, disability, or resignation of a director appointed by the Declarant, the Declarant may

appoint a successor director to fill the vacancy.

B. Meetings.

3.7. Organizational Meetings. The first Board meeting following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.8. Regular Meetings. Regular Board meetings may be held at such time and place a majority of the directors shall determine, but at least one such meeting shall be held in each quarter of the fiscal year. Notice of the time and place of a regular meeting shall be communicated to directors not less than 4 days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9. Special Meetings. There shall be special Board meetings when the President or any two directors sign a written notice calling such meeting.

3.10. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a Person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, fiber optics, or such other communication device, with confirmation of transmission, unless otherwise prohibited by Georgia law.

All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least 5 business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) The transactions of any Board meeting, 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 quorum is present, and (ii) 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 also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11. Telephonic Participation in Meetings. Board members or any committee the Board designates may participate in a Board meeting or committee by means of conference telephone call or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in

person at such meeting.

3.12. Quorum of Board of Directors. At all Board meetings, 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 Board's decision, unless otherwise specifically provided in these By-Laws or the Declaration. 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 Board meeting cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting. 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.

3.13. Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Owners representing a majority of the votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Board majority, excluding the interested director.

3.14. Conduct of Meetings. The President shall preside over all Board meetings, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.15. Open Meetings. Subject to the provisions of Section 3.16, all Board meetings shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested by the Member. In such case, the President may place reasonable limitations on the time any such individual may speak.

Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude Persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc. Any matter discussed in executive session must be generally noted in the Board meeting minutes.

3.16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors 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, and such consent shall have the same force and effect as a unanimous vote. Written consent or consents shall be filed with the minutes of the Board's proceedings. A notice of the Board's action shall be posted in a prominent place within the Properties or personally delivered to each Owner within three business days after all written consents to an action have been obtained. Failure to give notice shall not render the action taken invalid.

C. Powers and Duties.

3.17. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as otherwise provided by law. Except for those acts or other powers which are to be done and exercised by the membership, or otherwise limited or prohibited under Georgia law or the Governing Documents, the Board may do or shall cause to be done all acts and things which in their business judgment benefits the Association.

3.18. Duties. The Board's duties shall include, without limitation:

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

(b) levying and collecting such assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on Association's behalf in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' business judgment, in depositories other than banks;

(f) making and amending Use Restrictions and Rules in accordance with the Declaration;

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

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Element in accordance with the Declaration and these By-Laws;

(i) enforcing the Governing Documents and bringing any legal proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in the case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying all taxes and/or assessments which are or could become a lien on the Common Element or a portion thereof;

(l) paying the cost of all services rendered to the Association;

(m) keeping books with detailed accounts of the Association's receipts and expenditures;

(n) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other Association books, records, and financial statements as provided in Section 6.4 or as otherwise required by Georgia law;

(o) permitting utility suppliers to use portions of the Common Element reasonably necessary to the ongoing development or operation of the Properties;

(p) indemnifying an Association director, officer, or committee member, or former director, officer, or committee member to the extent such indemnity is permitted or required by Georgia law, the Articles, or the Declaration; and,

(q) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.19. Right of Declarant to Disapprove Actions.

(a) Declarant's Right to Disapprove Actions. Until expiration of the Declarant Control Period, Declarant voluntarily may relinquish its right to appoint and remove Association officers and directors; provided, however, in such instance the Declarant shall have the right to disapprove any Association action, policy, or program, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant under the Declaration or these By-Laws, or interfere with the development or construction of any portion of the Properties, or diminish the level of services being provided by the Association.

(b) Notice. Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Section 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting.

(c) Participation. Declarant shall be given the opportunity at any Association meeting, including Board and committee meetings, to join in or to have its representatives, or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or members of the subject committee,

either during or outside of the meeting.

(d) Timing Period for Consent. Declarant, acting through any officer, director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action.

This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counterclaim on behalf of any committee, the Board, or the Association. Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (b) and (c) above have been met and the time period set forth in this subsection has expired.

3.20. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy making authority or those duties set forth in Sections 3.18(a), 3.18(b), 3.18(e), 3.18(f), 3.18(g) and 3.18(i). Declarant or an affiliate of Declarant may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

3.21. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) Association cash accounts shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm

providing goods or services to the Association shall be disclosed promptly to the Board;

(f) commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and,

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution);

(g) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

3.22. Borrowing. The Association shall have the power to borrow money for any legal purpose. The Board shall obtain approval of Owners entitled to cast at least a majority of votes at a duly called and held meeting at which quorum is present if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year.

Portions of the Common Element may be subjected to a security interest by the Association provided that Owners entitled to cast at least a majority of the Association's votes, including a majority of the votes of Units not owned by the Declarant, agree to such action. Limited Common Element may also be subjected to a security interest provided that all Owners of Units to which the area is allocated agree to such action. During the Declarant Control Period, no Mortgage lien shall be placed on any portion of the Common Element without the affirmative vote or written consent, or any combination thereof, of Home Owners representing at least 67% of the total votes attributable to Home Owner Members in the Association.

3.23. Rights to Contract. The Association shall have the right to contract with any Person for the performance of various duties, functions, and services. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, within and outside the Properties and Clifton Heights; provided, any common management agreement shall require the consent of a majority of the total number of Association directors. The Association shall have the right to terminate contracts entered into during the Declarant Control Period, which have a term of more than twelve (12) months.

3.24. Board Training. Prior to serving as a director, each Board member shall certify in writing that he or she has read and understands the Governing Documents.

3.25. Board Standards. In the performance of their duties, Association directors and officers shall act as fiduciaries and are subject to insulation from liability provided for directors and officers of corporations by Georgia law and as otherwise provided in the Governing Documents. Directors are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business judgment rule.

As defined herein, a director shall be acting in accordance with the business judgment rule so long as the director: (a) acts within the express or implied terms of the Governing Documents and his or her actions are not *ultra vires*; (b) affirmatively undertakes to make decisions which are necessary for the continued and successful operation of the Association and, when decisions are made, they are made on an informed basis; (c) acts on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other), and avoids participation in such decisions and actions; and (d) acts in a non-fraudulent manner and without reckless indifference to the affairs of the Association. A director acting in accordance with the business judgment rule shall be protected from personal liability.

Board determinations of the meaning, scope, and application of Governing Document provisions shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

3.26. Enforcement Procedures.

Prior to exercising certain enforcement rights set forth in Section 7.4 of the Declaration and the Governing Documents, the Association shall comply with the following notice and hearing procedures:

(a) Notice. Prior to imposing any sanction as provided in the Governing Documents which requires notice, the Board or, if so directed by the Board, the Board, or the management agent, shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board within 15 days of delivery of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless the Board

receives a request for a hearing within such time period. Proof of proper notice shall be placed in the Board's record book. Proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator requests a hearing.

If the Board does not receive a timely request for a hearing, the sanction stated in the notice shall be imposed; provided, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured or if a cure is diligently commenced within the 15 day period. Such suspension shall not constitute a waiver of the right to sanction any Person's future violations of the same or other provisions and rules.

(b) Hearing. If the alleged violator requests a hearing within the allotted 15 day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

Notwithstanding anything to the contrary in this Section, the Board may elect to enforce the Governing Documents by certain sanctions set forth in Section 7.4 of the Declaration including by suit at law or in equity to enjoin any violation, or to recover monetary damages, or both, without the necessity of compliance with the procedures set forth above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation shall pay all costs, including reasonable attorneys' fees actually incurred.

Article IV Officers

4.1. Officers. The officers of the Association shall be a President, Vice President/Treasurer and Secretary. The President, Vice President, Treasurer, and Secretary shall be elected from among the Board members. Other officers may, but need not be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties the Board prescribes. Any two or more offices may be held by the same individual, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Association at the first Board meeting following each annual meeting of the Association to serve until their successors are elected.

4.3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served. The Board may fill a vacancy arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief

executive officer of the Association. 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. The Treasurer shall have primary responsibility for the preparation of the Budget as provided for in the Declaration and these By-Laws (all or part of such preparation and notification duties may be delegated to a finance committee, management agent, or both). The Secretary shall keep the minutes of all meetings of the Association and the Board and shall have charge of such books and papers as the Board may direct. In the Secretary's absence, the Board may direct any officer to perform all duties incident to the office of Secretary.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, 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.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association (other than for the withdrawal of reserve funds) shall be executed by at least two officers or by such other Person or Persons as may be designated by Board resolution. The Board shall require signatures for the withdrawal of reserve funds of either two Board members or a Board member and officer of the Association who is not also a Board member. For purposes of this Section, "reserve funds" means monies the Board has identified in the budget for use to defray the future repair or replacement of, or additions, to those major components which the Association is obligated to maintain.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

Article V Committees

The Board may establish such committees and charter clubs as it deems appropriate to perform such tasks and functions as the Board may designate by resolution. Committee members serve at the Board's discretion for such periods as the Board may designate by resolution; provided, however, any committee member, including the committee chair, may be removed by the vote of a majority of the directors. Each committee shall operate in accordance with the terms of the resolution establishing such committee.

Article VI Miscellaneous

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise established by Board resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order* (the then current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, or these By-Laws.

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

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, including any amendments, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and,
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications 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 United States mail, first class postage prepaid:

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

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

6.6. Amendment.

(a) By Declarant. Prior to the conveyance of the first Unit by the Declarant to a Home Owner, the Declarant may unilaterally amend these By-Laws. After such conveyance, and subject

to the requirements of Article XIV of the Declaration, if applicable, Declarant may unilaterally amend these By-Laws at any time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Unit Owner shall consent thereto in writing. Prior to the termination of the Declarant Control Period, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of a majority of the total Owner votes in the Association, and the Declarant's consent during the Declarant Control Period. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within one year of its Recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege for so long as Declarant owns any property described on Exhibit "A" to the Declaration.

6.7. Membership Book. The Board shall keep and maintain at the Association's principal office of business a book containing each Member's name and address. Termination or transfer of membership shall be recorded in the book, together with the date on which such ownership was transferred.

6.8 Diagrams. All diagrams which are included in these By-Laws are intended only to summarize the express written terms of the Governing Documents. **Diagrams are not intended to supplant or supplement the express written or implied terms contained in the Governing Documents.**