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Return to: Robert S. Stein, Esq.  
Weissman, Nowack, Curry & Wilco, P.C.  
1349 West Peachtree Street, 15th Floor  
Atlanta, Georgia 30309

STATE OF GEORGIA  
COUNTY OF CHEROKEE

Cross Reference: Deed Book 1263  
Page 232

**AMENDMENT TO THE DECLARATION OF  
PROTECTIVE COVENANTS FOR WELLESLEY**

WHEREAS, the Declaration of Protective Covenants For Wellesley was recorded on August 18, 1992, in Deed Book 1263, Page 232, et seq., Cherokee County, Georgia Records ("Declaration"); and

WHEREAS, Article XII, Section 4 of the Declaration provides for amendment of the Declaration with the affirmative vote, written consent, or any combination thereof, of Owners representing at least two-thirds (2/3) of the Total Association Vote; and

WHEREAS, members holding at least two-thirds (2/3) of the Total Association Vote desire to amend the Declaration and have approved this amendment; and

WHEREAS, this amendment does not modify or amend any material or substantive provisions which will adversely affect the interests of any institutional mortgagee holding a first priority mortgage on any Lot; provided, however, if a court of competent jurisdiction determines that this amendment does so without such mortgagee's consent in writing, then this amendment shall not be binding on such mortgagee, unless such mortgagee consents hereto; and if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to the affected mortgagee;

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**THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.**

**CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING ASSESSMENTS/CHARGES DUE ON LOTS .**

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article II, Section 1 of the Declaration is hereby amended by adding the following to the end thereof:

The property subjected to this Declaration constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq., as such act may be amended from time to time.

2.

Articles IV of the Declaration is hereby deleted in its entirety and the following is substituted therefore:

Article IV  
Assessments

Section 1. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for common expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots as may be authorized by the Board.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific or individual assessments against any particular Lot which are established pursuant hereto, including, but not limited to, reasonable fines imposed in accordance with the terms of the Act and hereof.

All such assessments, together with charges, interest, costs, and reasonably attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Property and Community facilities, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties. The lien provided for herein shall have priority as provided in the Act.

Section 3. Individual Assessments. Except as otherwise provided herein, each Lot is hereby allocated equal liability for common expenses.

(a) Except as provided below, or elsewhere in the Act, the Declaration or the By-Laws, the amount of all common expenses shall be assessed against all the Lots.

(b) The Board of Directors shall have the power to assess specially pursuant to this Section and to Section 44-3-225(a) of the Act as, in its discretion, it deems appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not

constitute a waiver of the Board's right to exercise its authority hereunder in the future with respect to any expenses.

(i) Any common expenses benefiting less than all of the Lots or significantly disproportionately benefiting all Lots may be specially assessed equitably among all of the Lots which are benefitted according to the benefit received.

(ii) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot(s), including attorney's fees incurred in enforcing the Declaration, By-Laws or rules and regulations, may be specially assessed against such Lot(s).

**Section 4. Delinquent Assessments.** All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(a) If any assessment or other charge, or any part thereof, is not paid in full within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten (10%) percent per annum or such higher rate as may be permitted by the Act shall accrue from the due date.

(b) If part payment of assessments and related charges is made, the amount received shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, and then to current assessments. Late charges may be assessed on balances created by the application of current payments to outstanding delinquent assessments for charges.

(c) If assessments, fines or other charges, or any part thereof due from an Owner remain delinquent and unpaid for more than fifteen (15) days from the date due, then, after ten (10) days written notice, the Board may accelerate and declare immediately due any installments of the annual assessment and any special assessment.

(d) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, the Act and Georgia law and suspend the Owner's and Occupant's right to use the Common Property and Community facilities.

**Section 5. Computation of Operating Budget and Assessment.** At least thirty (30) days prior to the beginning of the Association's fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Association Common Property during the coming year. The Board shall cause the budget and notice of the assessments to be levied against each Lot for the following year to be delivered to each Member at least twenty-one (21) days prior to the Association's annual meeting. The annual budget and assessment shall become effective unless disapproved at an Association meeting by a majority of the Total Association Vote. If the membership or the Board fails for any reason to determine or approve the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the Members at least thirty (30) days prior to the proposed effective date thereof.

**Section 6. Special Assessments.** In addition to other assessments authorized herein, the Board may levy special assessments for any purpose against all Owners after written notice and with prior approval of Owners holding two-thirds (2/3) of the vote cast in person or by proxy at a duly called Association meeting or by ballot.

**Section 7. Statement of Account.** Any Owner, mortgagee, or a person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) days of

receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars or such higher amount authorized under the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

Section 8. Capital Budget and Contribution. The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in Section 5 hereof. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

Section 9. Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of common expenses. Any surplus funds remaining after the application of such common profits to the payment of common expenses shall, at the Board's option, either be distributed equally to the Owners or credited to the next assessment chargeable to the Owners, or added to the Association's reserve account.

3.

**Article VI of the Declaration is hereby deleted in its entirety and the following is substituted therefore:**

Section 1. General. Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

Use restrictions regarding use of Lots and the Common Property are as follows and also as may be adopted by the Board in accordance with the terms hereof and as specified in the Bylaws.

Section 2. Residential Use of Lots. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing in a residence on a Lot may conduct such ancillary business activities within the residence so long as:

- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;
- (b) the business activity does not involve visitation of the residence by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential residence without business activity;
- (c) the business activity conforms to all zoning requirements for the Property;
- (d) the business activity does not increase traffic in the Property in excess of what would normally be expected for residential dwellings in the Property without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);
- (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(f) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as determined in Board's discretion; and

(g) the business activity does not result in a materially greater use of common area facilities or Association services.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

**Section 3. Signs and Flagpoles.** Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee, except that: (i) two (2) professional security signs not to exceed six (6") inches by six (6") inches each in size may be displayed from within a residence on a Lot, (ii) one (1) trade company sign during duration of the company's work on the Lot not to exceed one (1') foot by one (1') foot in size may be displayed on a dwelling, (iii) one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed on a Lot being offered for sale or for lease, (iv) one (1) political sign having a maximum area of six (6) square feet may be posted no sooner than ten (10) days prior to the election date and no later than one day following the election date, (v) one (1) temporary sign announcing a garage or yard sale may be posted on a Lot no sooner than 72 hours in advance of such event and no later than 24 hours following such event. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time.

A single flagpole staff may be attached to the front portion of a dwelling on a Lot. Free standing flagpoles are prohibited, unless approved in writing by the Board of Directors.

**Section 4. Parking.** Without prior written Board consent, no vehicles may be parked overnight on the Common Property, except in spaces designated as parking spaces by the Board. Disabled and stored vehicles are prohibited from being parked on the Property, except in garages. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Property, other than in a garage, for seven (7) consecutive days or longer without prior written Board permission.

Motorcycles, boats, trailers, buses, trucks with a load capacity of one (1) ton or more and vans (excluding mini-vans and sport utility vehicles used as passenger vehicles), recreational vehicles (RV's, campers and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes, tool racks, business decals or signs, or other visible business evidence), and vehicles with commercial writings on their exteriors are also prohibited from being parked on a Lot or on the Property, except: (1) in garages or as otherwise approved by the Board, or (2), in the case of service vehicles, on a temporary basis during daytime business hours or during emergencies for the purpose of serving a Lot.

If any vehicle is parked on any portion of the Property in violation of this subparagraph or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Property stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle Owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

**Section 5. Leasing of Lots.** "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner; provided, however, for purposes of this Declaration, leasing shall not include exclusive occupancy by the child or parent of an Owner. For purposes hereof, occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary residence shall not constitute leasing hereunder. If an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, manager or member of such limited liability company, partner of such partnership, beneficiary or other designated agent of such trust, or agent of such other legal entity shall be deemed an Owner of such Unit for purposes of this Paragraph 12. Such person's designation as an Owner of such Unit pursuant to this Paragraph 12 shall terminate automatically upon the termination of such person's relationship with the entity holding record title of the Unit.

Leasing of Lots shall be governed by the following provisions: Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and, upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than six (6) months, except with written Board approval. Within seven (7) days after executing a lease agreement for the lease of a Lot, the Lot Owner shall provide the Board with a copy of the lease and the name of the lessee and the names of all other people to occupy the Lot. The Lot Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations.

Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Lot, covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Lot:

The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner. If a fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot. Any lessee charged with a violation of the Declaration, Bylaws, or Association rules and regulations is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. If the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specifically assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property, including, but not limited to, the use of any and all recreational facilities.

When a Lot Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under Paragraph 7 herein as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Leases existing on the Effective Date hereof shall not be subject to the terms of this Section. Such leases may continue in accordance with the terms of the Original Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Paragraph. Any Owner of a Lot which is leased on the date this Declaration is recorded in the Fulton County land records shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Declaration is recorded in the Fulton County, Georgia land records. This Paragraph 12 shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

Section 6. Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written Board consent, except as specifically provided herein.

Section 7. Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Property, as determined in the Board's discretion. The Board may establish regulations restricting the number and/or size of pets kept or brought on the Property.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors in unfenced areas. Only two (2) dog houses or other structures for the care, housing or confinement of any pet shall be permitted on each Lot outside of a residence. All such structures shall be placed in the backyard and in an inconspicuous location (as determined in the sole discretion of the Board of Directors). Such structures shall not be placed within ten (10') feet of any property line.

No dogs determined in the Board's sole discretion to be dangerous dogs may be brought onto or kept on the Property at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, must be permanently removed from the Property upon seven (7) days' written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any member of the Community may be removed by the Board without prior notice to the pet's owner.

**Section 8. Prohibition of Damage, Nuisance and Noise.** Without prior written Board consent, nothing shall be done or kept on the Property or any part thereof which would increase the rate of insurance on the Property or any Lot or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive or offensive activity shall not be carried on upon the Property. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, nuisance or annoyance to other Owners or Occupants. No Owner or Occupant of a Lot may use or allow the use of the Lot or any portion of the Property in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or Occupants of a portion of the Property, or in such a way as to constitute, in the Board's sole opinion, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. No Owner or Occupant of a Lot may use or allow the use of the Lot or the Common Property in any manner which creates disturbing noises between the hours of 11:00 p.m. and 7:30 a.m. that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of the other Owners or Occupants.

No Owner shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Property or any structure created thereon, would reduce the value thereof, or would impair any easement or hereditaments thereto, without prior written consent of all Association members and their Mortgagees.

No damage to or waste of the Common Property, or any part thereof, or of the exterior of any building constructed upon any Lot shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

**Section 9. Unightly or Unkempt Conditions.** The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and bicycles may be kept on the patio or deck serving the Lot. Each Lot, its landscaping and structures must be maintained in good repair and appearance at all times.

**Section 10. Architectural Standards.** No exterior construction, reconstruction, alteration, addition or structure of any nature whatsoever (including, without limitation, sidewalks, driveways, parking lots, mailboxes, decks, patios, courtyards, greenhouses, awnings, walls, garages, fences, pools, tennis courts, exterior lighting, tree houses, water features and play equipment) shall be commenced or placed upon any part of the Community except as is expressly permitted in accordance with this Section or as is otherwise expressly permitted herein. No exterior construction, addition structure, or alteration shall be made unless and until two (2) copies of the plans and specifications and related data showing the nature, color, kind, shape, height, materials and location of same shall have been submitted in writing to and approved by the Board or its designee. The Board or its designee may promulgate written guidelines of the exercise of this review. Notwithstanding the foregoing, an Owner may make interior improvements and alterations within his or her residence that do not affect the exterior appearance without the necessity of approval or review by the Board or its designee.

(a) The Board or its designee shall be the sole arbiter of such application and may withhold approval for any reason including purely aesthetic considerations and the Association acting through the Board shall be entitled to stop any construction which is not in conformance with the approved plans. The Board or its designee may publish written architectural standards for exterior and Common Property, alterations or additions. The Board may allow such encroachments on the Common Property as it deems acceptable. If the Board or its designee fails to approve or disapprove such application within sixty (60) days after the application and such information as the Board or its designee may reasonably require shall have been submitted, its approval will not be required and this Section will be deemed complied with, unless such structure or improvement otherwise is in violation of the Declaration, the By-Laws, the design standards, the Association's rules and regulations or applicable zoning ordinances.

(b) As a condition of approval for requested architectural change, modification, addition or alteration, an Owner on behalf of himself or herself and his or her successors in interest shall assume all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition, or alteration. In the discretion of the Board, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors in interest.

(c) Review and approval of any application pursuant to this paragraph may be made on any basis including solely the basis of aesthetic considerations and neither the Board nor its designee shall bear any responsibility for ensuring the design quality, structural integrity or soundness of approved construction or modifications nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Association, the Board or members of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design or quality of approved construction or in modification to any Lot nor may any action be brought against the Association, the Board, or any member of the Board for such injury, damage or loss.

(d) Each Owner acknowledges that the members of the Board will change from time to time and the interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of the Board of any proposals, plans, and specifications or drawings of any work done or proposed, or in connection with any other matter requiring approval of the Board shall not constitute waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatsoever subsequently or additionally submitted for approval or consent.

(e) Any construction, alteration or other work done in violation of this paragraph, the Declaration, the By-Laws, the design standards or an applicable zoning regulations shall be deemed to be non-conforming. Upon written request from the Board, a violating Owner shall, at his or her own cost and expense, remove such non-conforming construction, alteration or other work and restore the property to substantially the same condition as existed prior to such construction, alteration, or work. Should the Owner fail to do so, the Board, or its designee shall have the right in addition to all other available remedies to enter the property, remove the violation, and restore the property or obtain a court order compelling the violating Owner to do so. All costs thereof, including reasonable attorneys' fees actually incurred may be assessed against such lot.

In addition to the above, the Board shall have the authority and standing on behalf of the Association to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this paragraph and its decisions. All costs of any such action including reasonable attorneys' fees actually incurred, may be assessed against such Lot. The Board shall have the authority to record in the Cherokee County land records notices of the violation of the provisions of this paragraph.

(f) All improvements approved by the Board must be commenced within six (6) months from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Board unless the Board gives a written extension for commencing the work. Additionally, except with written Board approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials, shortages, or other intervening forces beyond the control of the owner, all work approved by the Board hereunder shall be completed within ninety (90) days of commencement.

(g) The provisions contained in this section are in addition to the Architectural Control Provisions contained in the Master Declaration. Approval of plans and specifications hereunder shall not obviate the need also to obtain approval as required by the Master Declaration.

**Section 11. Antennas and Satellite Dishes.** No transmission antenna, of any kind, may be erected anywhere on the Property without written approval of the Board of Directors or its designee. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Property, including a Lot. DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association authorized by the FCC, both as may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. Except as provided by this Section, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Property, whether attached to a home or structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

**Section 12. Gardens, Basketball Goals, etc.** Grass, ornamental plants and shrubbery may be planted in the front or side yard of any Lot. Garden plots may be created and maintained without approval if the Lot is located behind the rear line of the residence. All other planting may be done only with prior written approval of the Board or its designee or in accordance with the guidelines previously established by the Board or its designee. Overseeding of Fesque lawns and sodding of lawns with Bermuda, Centipede, or Zoysia grasses shall not require prior approval pursuant to this section. No vegetable garden, hammocks, statuary or recreational equipment may be placed, erected, allowed, or maintained upon any Lot without the prior written consent of the Board or its designee. Basketball goals with white, beige, clear or light gray backboards and black painted posts may be installed without approval.

**Section 13. Tree Removal.** No trees which are left on the Lot at closing shall be removed without the express consent of the Board or its designee, except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees; and (c) trees under six inches (6") in diameter.

**Section 14. Lighting.** Notwithstanding Article VI, Section 13 above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Board or its designee: (1) decorative lights during the winter holiday season and (2) illumination of other than the front or side yards of a lot. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI, Section 10.

**Section 15. Drainage.** Catch basins in drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Lot may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains.

**Section 16. Sight Distance at Intersections.** All property located at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain at any corner where this would create a traffic or sight problem.

**Section 17. Sidewalks.** No fence, wall, hedge or shrub planting shall be placed or maintained so as to block access to the sidewalks in the Community. Tree limbs higher than ten (10) feet from the ground shall be allowed to overhand sidewalk areas. No motorized vehicles of any sort shall be operated on the sidewalks of the Community.

Section 18. Garbage, Clotheslines and Woodpiles. All rubbish, trash, and garbage shall be regularly removed from the residence and Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Property, temporarily or otherwise. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. All garbage cans, woodpiles and other similar items shall be located so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot. No clotheslines shall be permitted on the exterior of any Lot.

Section 19. Subdivision of Lots and Outbuildings. No Lot may be subdivided into a smaller Lot and no structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Property, at any time, either temporarily or permanently.

Section 20. Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Property is prohibited; provided, however, that the display of lawful firearms on the Common Property is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1.

Section 21. Solar Devices. No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposed shall be placed, allowed or maintained upon any portion of the Community, including any Lot without the prior written consent of the Board or its designee.

Section 22. Fences. No fence or fencing-type barrier of any kind shall be placed, erected, allowed or maintained upon any portion of the community, including any Lot without the prior written consent of the Board or its designee. Under no circumstances shall any fence be placed, erected, allowed or maintained closer to any street than the rear of the residence constructed on such Lot. The Board or its designee may issue guidelines detailing acceptable fence styles or specifications, but in no event may a chain link fence or woven metal fence be approved.

Section 23. Exterior Colors. The exterior of all improvements, including, without limitation, residences constructed, erected, allowed or maintained upon any Lot must be painted or repainted in a color used by Declarant in the original construction and marketing of residences within the Community or color used by John Wieland Homes, Inc. in the original construction or marketing of residences in any subdivision located within the same county as the Community. Fence and deck colors must be natural or painted or stained to match the exterior or exterior trim color of the residence.

Section 24. Detached Structures. No detached structures shall be placed, erected, allowed or maintained upon any Lot without the prior written consent of the Board or its designee. All detached structures shall be consistent in design materials and color with the residence on the lot. The provisions of this section do not apply to playhouses, dog houses or cat houses. Further, tents may be struck in the rear of the residence for a period not to exceed 72 hours.

Section 25. Entry Features and Street Signs. Owners shall not alter, remove, or add improvements to any entry features or street signs constructed by the Declarant on any Lot or any part of any easement area associated therewith without the prior written consent of the Board or its designee.

Section 26. Above Ground Pools. Above ground pools shall not be permitted in the community.

Section 27. Windows and Doors. Installation of storm windows and doors requires approval by the Board or its designee. Installation of replacement windows or doors of substantially the same style and the same color as originally installed does not require prior Board approval. Plans submitted with the request for approval shall include a picture or drawing of all windows and/or doors on which storm windows and doors will be installed, a picture depicting the style of storm window and/or door to be installed and the color thereof.

Article IX of the Declaration is hereby deleted in its entirety and the following is substituted therefore:

Article IX  
Duties and Powers

The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, the By-Laws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association. The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the property and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation or the By-Laws directed to be done and exercised exclusively by the Members. In addition to all other rights and powers of the Association, the Association shall have the power to enforce use restrictions, other Declaration and By-Laws provisions, and rules and regulations by imposing reasonable monetary fines, exercising self-help powers, and suspending use and voting privileges, as provided herein and in Section 44-3-223 of the Act. These powers, however, shall not limit any other legal means of enforcing the use restrictions or Association rules and regulations by either the Association or, in an appropriate case, by an aggrieved Owner.

If there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, the By-Laws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and the By-Laws, in that order, shall prevail, and each Owner of a Lot, by acceptance of a deed or other conveyance therefore, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

5.

Article XII, Sections 1 and 2 are hereby deleted in their entirety and the following is substituted therefore:

Section 1. Authority and Enforcement.

(a) General. The Property shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and the Common Areas; provided, copies of all such rules and regulations shall be furnished to all Owners and occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership.

Every Owner and Occupant shall comply with the Declaration, By-Laws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, By-Laws or rules and regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Unit, and to suspend an Owner's right to vote or to use the Common Areas for violation of any duty imposed under the Declaration, By-Laws, or Association rules and regulations; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. If any Occupant violates the Declaration, By-Laws or Association rules and a fine is imposed, the fine may be imposed against the Owner and/or occupant, subject to subsection (b) below. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(b) Fining and Suspension Procedure. The Board shall not impose a fine or suspend the right to vote or to use the Common Property, unless and until the Association has sent or delivered written notice to the violator as provided in subsection (b)(i) below. However, compliance with this subsection (b) shall not be required for the following: (1) late charges on delinquent assessments, or (2) suspension of voting rights if an Owner is shown on

the Association's records to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to vote shall be automatic.

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

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

Section 2. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, towing vehicles that are in violation of parking rules, or performing maintenance on any Lot upon a failure by the Owner to do so) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 1(b) above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, By-Laws, or rules and regulations. All costs of self-help or of otherwise enforcing the Declaration, By-Laws or Association rules, including reasonable attorney's fees, shall be assessed against the violating Lot Owner. Additionally, the Association shall have the authority to record in the Cherokee County land records a notice of violation identifying an uncured violation of the Declaration, By-Laws or rules and regulations regarding the Lot.

6.

**Article XII, Section 3 is hereby deleted in its entirety and the following is substituted therefore:**

Section 3. Duration. The covenants and conditions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

7.

**Exhibit "A" of the Declaration is hereby amended by adding the following to the end of subsection (d):**

The property constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq., as such act as may be amended from time to time.

8.

**Exhibit "A" of the Declaration is hereby amended by adding the following new subsection (p) thereto:**

(p) "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq., as such act may be amended from time to time.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned officers of Wellesley Homeowners Association, Inc., hereby certify that these amendments to the Declaration were duly adopted by the requisite majority of the Association membership with any required notices properly given.

This \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**WELLESLEY HOMEOWNERS  
ASSOCIATION, INC.**

Sworn to and subscribed to before  
me this \_\_\_\_ day of \_\_\_\_\_,  
200\_\_.

By: \_\_\_\_\_ (Seal)  
President

Attest: \_\_\_\_\_ (Seal)  
Secretary

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

[Notary Seal]

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[CORPORATE SEAL]