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Cross Reference: Deed Book: 49857
Page: 556

Deed Book: 50281
Page: 28

SUPPLEMENTARY DECLARATION OF PROTECTIVE COVENANTS
AND EASEMENTS FOR BRAEBURN

(Designation of Braeburn II Townhome Neighborhood)

THIS SUPPLEMENTARY DECLARATION OF PROTECTIVE COVENANTS AND EASEMENTS FOR BRAEBURN ("Supplementary Declaration") is made as of August 14, 2018, by **PULTE HOME COMPANY, LLC**, a Michigan limited liability company, an entity legally converted from **PULTE HOME CORPORATION**, a Michigan corporation (hereinafter sometimes called "Pulte" or "Declarant");

W I T N E S S E T H

WHEREAS, John Wieland Homes and Neighborhoods, Inc., a Georgia corporation ("John Wieland Homes"), as "Declarant," executed that certain Declaration of Protective Covenants and Easements for Braeburn, which was recorded on February 23, 2011 in Deed Book 49857, page 556, *et seq.*, in the Office of the Clerk of the Superior Court of Fulton County, Georgia (hereinafter as such document may have been supplemented and/or amended from time to time referred to as the "Master Declaration"); and

WHEREAS, John Wieland Homes assigned all rights, title, interests, powers and authority as Declarant arising under the Declaration to JW Homes, LLC, a Delaware limited liability company ("JW Homes") pursuant to that certain Assignment of Declarant Rights, recorded November 19, 2012 at Deed Book 51909, Page 397, *et seq.*, Fulton County, Georgia land records; and

WHEREAS, JW Homes assigned all of its rights, title, interests, powers and authority as Declarant under the Master Declaration to Pulte pursuant to that certain Assignment of Declarant's Rights (Braeburn, Fulton County, Georgia), which was recorded March 8, 2016 at Deed Book 55912, Page 168, *et seq.*, Fulton County, Georgia land records; and

WHEREAS, Section (m) of Exhibit "A" to the Master Declaration provides, in pertinent part, that the Declarant shall have the right to designate separate Neighborhood status by filing one or more Supplementary Declarations in the Fulton County, Georgia land records; and

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and by this reference incorporated herein (said real property is hereinafter referred to as the "Braeburn II Townhome Property") and desires to designate the Braeburn II Townhome Property as a separate Neighborhood in accordance with the terms and conditions set forth in the Master Declaration; and

WHEREAS, Declarant has formed the "Braeburn Townhome II Association, Inc," as the mandatory membership homeowners association to administer, govern and operate the Braeburn II Townhome Property with respect to the administering the obligations arising under the Parking Easement Agreement, as such term is defined in Article II below; and

WHEREAS, the Braeburn II Townhome Property is also subject to the provisions of that certain Declaration of Protective Covenants and Easements for Braeburn Townhomes, recorded August 8, 2011 at Deed Book 50281, Page 172, *et seq.*, Fulton County, Georgia land records and is also governed by the Braeburn Townhome Association, Inc.;

NOW, THEREFORE, Declarant, pursuant to the powers retained by Declarant under the Master Declaration, and in accordance with the provisions set forth in Exhibit "A" of Section (m) thereof, Declarant hereby confirms that all of that tract or parcel of land described on Exhibit "A" attached hereto and by this reference incorporated herein is subject to the provisions of this Supplementary Declaration. Such property shall be sold, transferred, used, conveyed, occupied and encumbered pursuant to the provisions of the Master Declaration, all of which shall run with the title to such property and shall be binding upon all persons having any right, title, or interest in such property, their respective heirs, legal representatives, successors, successors-in-title and assigns.

Article I
Designation of Neighborhood

Pursuant to Section (m) of Exhibit "A" to the Master Declaration, the property described on Exhibit "A" attached hereto and by this reference incorporated herein shall hereafter be referred to as the Braeburn II Townhome Neighborhood and shall be subject to the jurisdiction of the Braeburn Townhome II Association, Inc., as defined in Article II below.

Article II
Definitions

Except for the words defined below in Article II of this Supplementary Declaration, all capitalized terms shall have the meanings set forth in the Master Declaration.

(a) "Braeburn II Association" means Braeburn Townhome II Association, Inc., a Georgia nonprofit corporation, its successor or assigns.

(b) "Braeburn II Board of Directors" or "Braeburn II Board" means the appointed or elected body of the Braeburn II Association, vested with the authority to operate and manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-101, *et seq.*

(c) "Braeburn II Bylaws" means the Bylaws of Braeburn Townhome II Association, Inc., attached to this Supplementary Declaration as Exhibit "B" and incorporated herein by this reference, as amended from time to time.

(d) "Braeburn II Lot" means any Lot within the Braeburn II Townhome Neighborhood.

(e) "Braeburn II Townhome Neighborhood" means the real property described on Exhibit "A" attached hereto and by this reference incorporated herein.

(f) "Braeburn Office Association" means Braeburn Office Village Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

(g) "Master Association" means Braeburn Neighborhood Association, Inc., a Georgia nonprofit corporation (referred to as the "Association" in the Master Declaration).

(h) "Parking Easement Agreement" means that certain Parking Easement Agreement by and between the Braeburn II Association and the Braeburn Office Association, recorded or to be recorded in the Fulton County, Georgia land records, which will allow Owners of Braeburn II Lots and their respective Occupants, tenants, guests and licensee to park on a portion of the adjacent commercial property known as Braeburn Office Village in accordance with the terms and conditions set forth therein.

(i) "Townhome Declaration" that certain Declaration of Protective Covenants and Easements for Braeburn Townhomes, recorded August 8, 2011 at Deed Book 50281, Page 172, *et seq.*, Fulton County, Georgia land records. The property encumbered by the Braeburn Townhome Declaration includes the Braeburn II Townhome Neighborhood.

Article III

Braeburn II Association Membership and Voting Rights

(a) Membership. Every Person who is the record owner of a fee or undivided fee interest in any Braeburn II Lot shall be subject to this Supplementary Declaration and shall have a membership in the Braeburn II Association. The foregoing is not intended to include Mortgagees and the giving of a security interest shall not terminate an Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Braeburn II Lot. Membership shall be appurtenant to and may not be separated from ownership of a Braeburn II Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the designee of a member, but in no event shall more than one (1) Person representing a single membership hold office at the same time. This Section is not intended to prohibit the same individual from being both an officer and a director of the Braeburn II Association.

Notwithstanding anything contained herein to the contrary, the Braeburn II Board shall have the sole right, power and authority to enter into the Parking Easement Agreement, and to amend, modify and/or supplement the same, and no vote of the members of the Braeburn II Association shall be required.

(b) Voting. Members shall be entitled to cast one (1) vote for each Braeburn II Lot owned. When more than one (1) Person holds an ownership interest in a Braeburn II Lot, the vote for such Braeburn II Lot shall be exercised as those Owners themselves determine and advise the Secretary of the Braeburn II Board prior to any meeting or referendum. The vote attributable to a Braeburn II Lot shall be suspended in the event more than one (1) Person seeks to exercise it. The Braeburn II Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Braeburn II Lot of the Owner remains unpaid.

(c) Voting Under the Master Declaration and Townhome Declaration. In addition to the voting rights granted herein, each Owner is also a member of the Master Association and the Braeburn Townhome Association, Inc. and shall be entitled to cast one (1) vote for each Braeburn II Lot owned in accordance with the provisions of the Master Declaration and the Townhome Declaration, respectively.

Article IV
Braeburn II Association Assessments

(a) Purpose. The assessments provided for in this Supplementary Declaration shall be used for the general purpose of promoting the recreation, health, welfare, common benefit and enjoyment of the Owners and Occupants of the Braeburn II Lots and specifically for the collection and disbursement of assessments owed to the Braeburn Office Association, Inc. under the Parking Easement Agreement.

The assessments provided for in this Supplementary Declaration shall be in addition to, not in lieu of, the assessments levied by the Master Association and Townhome Association pursuant to Article IV of the Master Declaration and Article IV of the Townhome Declaration, respectively.

(b) Creation of Lien and Personal Obligation for Assessments. Each Owner of a Braeburn II Lot covenants to pay annual and special assessments to the Braeburn II Association as provided herein. The provisions of Article IV, Section 2 of the Master Declaration shall also apply to any assessments levied by the Braeburn II Association pursuant to this Supplementary Declaration and any reference to the Master Association in Article IV of the Master Declaration shall be supplemented to include a reference to the Braeburn II Association.

(c) Budget and Annual Assessments.

(i) Budget. It shall be the duty of the Braeburn II Board to create a budget to cover the estimated costs of operating the Braeburn II Townhome Neighborhood each year, which shall include a line item for the costs expected to be incurred under the Parking Easement Agreement. The budget process shall be the same process followed by the Board of Directors of the Master Association under the Master Declaration.

(ii) Annual Assessments. Annual assessments shall be levied equally on all Braeburn II Lots and shall be paid in such manner and on such dates as may be fixed by the Braeburn II Board, which may include, without limitation, acceleration, upon ten (10) days' written notice for delinquents. Unless otherwise provided by the Braeburn II Board, the annual assessment shall be paid in one annual installment. Annual assessments include: (A) costs incurred under the Parking Easement Agreement; (B) costs required to fund the operating expenses of the Braeburn II Association; (C) the establishment of reserve funds as the Braeburn II Board shall deem proper; and (D) such other expenses as the Braeburn II Board deems necessary or advisable.

(d) Special Assessments. In addition to the annual assessments authorized herein, the Braeburn II Association may levy special assessments against all Owners of Braeburn II Lots. So long as the total amount of special assessments allocated to each Braeburn II Lot in a fiscal year does not exceed Three Hundred and No/100 Dollars (\$300.00), such special assessment may be levied without a vote of the members of the Braeburn II Association. Any special assessment which would cause the total amount of the special assessment applicable to a Braeburn II Lot to exceed Three Hundred and No/100 Dollars (\$300.00) shall require a Majority of the votes of the Braeburn II Association to be effective.

(e) Capital Contribution. Upon each and every transfer or conveyance of title to a Braeburn II Lot after it has been improved with a dwelling for which a certificate of occupancy has been issued, a working capital contribution in an amount determined by the Braeburn II Board from time to time, but not to exceed the amount of the annual assessment applicable to the Braeburn II Lot for the year of such conveyance, shall be collected from the new Owner at the closing of such transaction and disbursed to the Braeburn II Association; or if not collected at closing, shall be paid immediately upon demand to the Braeburn II Association.

The working capital contribution shall constitute a specific assessment against the Braeburn II Lot, shall be in addition to, not in lieu of, any assessments arising under the Master Declaration or Townhome Declaration and shall not be considered an advance payment of such assessments. The working capital contribution may be used by the Braeburn II Association for any purpose which provides a direct benefit to the Braeburn II Townhome Neighborhood, including, without limitation, for the payment of operating expenses of the Braeburn II Association and other expenses incurred by the Braeburn II Association pursuant to the provisions of this Supplementary Declaration.

Notwithstanding the foregoing, the working capital contribution shall not apply to the holder of any first Mortgage on a Braeburn II Lot who becomes the Owner of a Braeburn II Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage, but shall apply to the Owner acquiring title to the Braeburn II Lot from the foreclosing Mortgagee.

(f) Lien for Assessments. All sums assessed against any Braeburn II Lot by the Braeburn II Association pursuant to this Supplementary Declaration shall be secured by a lien in favor of the Braeburn II Association as set forth in Article IV, Section 6 of the Master Declaration and any reference to the Master Association in the Article IV, Section 6 of the Master Declaration shall be replaced with a reference to the Braeburn II Association.

(g) Effect of Nonpayment of Assessments; Remedies of the Braeburn II Association. The effect of nonpayment of any assessment levied in accordance with the provisions herein, and the remedies available to the Braeburn II Association for the collection of such delinquent assessments, shall be the same remedies available to the Association as set forth in Article IV, Section 7 of the Master Declaration and any reference to the Master Association in Article IV, Section 7 of the Master Declaration shall be supplemented to include a reference to the Braeburn II Association.

(h) Date of Commencement of Assessments. The assessments provided for herein shall commence as to a Braeburn II Lot on the same date that assessments commence under Article IV, Section 8 of the Master Declaration.

(i) Declarant Exemption. Notwithstanding anything to the contrary herein, Declarant shall be exempt from the payment of assessments under this Supplementary Declaration.

Article V
Miscellaneous

(a) Amendment. Declarant shall have the right to unilaterally amend this Supplementary Declaration for the same reasons the Declarant may unilaterally amend the Master Declaration, as set forth in Article XII, Section 4 thereof. All other amendments to this Supplementary Declaration must be approved by: (i) the affirmative vote, written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Braeburn II Lots; and (ii) Declarant, so long as it owns any property in Braeburn II. Amendments to this Supplementary Declaration shall not be effective until recorded in the Fulton County, Georgia land records.

(b) Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Braeburn II Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorneys' fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Braeburn II Board) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Braeburn II Association and the Braeburn II Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Braeburn II Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

(c) Notices. Except as otherwise specifically provided in such document(s), notices provided for in this Supplementary Declaration or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Braeburn II Lot and to the Braeburn II Association at the address of its respective registered agent on file with the Secretary of State of the State of Georgia. Any Owner may designate a different address, including an electronic mail address, for notices to such Owner by giving written notice to the Braeburn II Association. Owners shall keep the Braeburn II Association advised of their current address and phone number(s) where they can be reached. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable commercial courier service, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act". The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has caused this Supplementary Declaration to be executed under seal the day and year first above written.

DECLARANT: **PULTE HOME COMPANY, LLC**, a Michigan limited liability company, an entity legally converted from **PULTE HOME CORPORATION**, a Michigan corporation

By: *JG* (SEAL)
Print Name: JASON GARRETT
Title: Vice President of Land

Signed, sealed, and delivered in the presence of:

Chris Bull
WITNESS

Jenny Bojda
NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]



EXHIBIT "A"
Legal Description

The following property is hereby designated as the Braeburn II Townhome Neighborhood:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1098 and 1135 of the 2nd District, 2nd Section, City of Milton, Fulton County, Georgia, containing approximately 0.981 acres, as more particularly shown on that certain **Survey for: Braeburn Phase IV, Units T-1 to T-10**, prepared by Mc-Farland-Dyer & Associates, containing the seal of Chris Whitley, Georgia Registered Land Surveyor No. 2672, recorded August 7, 2018 in Plat Book 412, Page 96, Fulton County, Georgia land records, reference to said plat of survey and the record thereof being hereby made for a more complete description.

TOGETHER WITH:

(Future Townhome Units)

ALL THAT TRACT OR PARCEL OF land lying and being in Land Lot 1135, 2nd District, Fulton County, Georgia, being more particularly described as follows:

BEGINNING at the Land Lot Corner common to Land Lots 1097, 1098, 1135 and 1136; thence South 62°23'01" East a distance of 848.21 feet to a point located on the southern right of way of Heritage Walk (60 foot right of way), being the **POINT OF BEGINNING**; thence along said right of way 269.46 feet along a curve to the right, said curve having a chord of North 62°23'18" East 258.73 feet and a radius of 274.00 feet to a point; thence continuing along said right of way South 89°26'21" East a distance of 8.57 feet to a point; thence leaving said right of way South 00°39'36" West a distance of 229.95 feet to a point; thence North 61°53'07" West a distance of 43.83 feet to a point; thence South 28°40'12" West a distance of 9.19 feet to a point; thence North 63°05'21" West a distance of 215.45 feet to a point, being the **POINT OF BEGINNING**. Said tract contains 0.782 Acres.

EXHIBIT "B"

BYLAWS

OF

BRAEBURN TOWNHOME II ASSOCIATION, INC.

Prepared By:
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BYLAWS
 OF
 BRAEBURN TOWNHOME II ASSOCIATION, INC.
 - TABLE OF CONTENTS -

	<u>Page Number</u>
ARTICLE 1 <u>NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS</u>	1
1.1 <u>NAME</u>	1
1.2 <u>MEMBERSHIP</u>	1
1.3 <u>DEFINITIONS</u>	1
ARTICLE 2 <u>ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES</u>	1
2.1 <u>PLACE OF MEETINGS</u>	1
2.2 <u>ANNUAL MEETINGS</u>	1
2.3 <u>SPECIAL MEETINGS</u>	1
2.4 <u>RECORD DATE</u>	2
2.5 <u>NOTICE OF MEETINGS</u>	2
2.6 <u>WAIVER OF NOTICE</u>	2
2.7 <u>ADJOURNMENT OF MEETINGS</u>	2
2.8 <u>MEMBERSHIP LIST</u>	2
2.9 <u>VOTING</u>	3
2.10 <u>PROXIES</u>	3
2.11 <u>QUORUM</u>	3
2.12 <u>ACTION BY WRITTEN CONSENT</u>	3
2.13 <u>ACTION BY WRITTEN BALLOT</u>	4
ARTICLE 3 <u>BRAEBURN II BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS</u>	4
3.1 <u>GOVERNING BODY; COMPOSITION</u>	4
3.2 <u>DIRECTORS APPOINTED BY DECLARANT</u>	4
3.3 <u>NUMBER OF DIRECTORS</u>	4
3.4 <u>NOMINATION OF DIRECTORS</u>	5
3.5 <u>ELECTION AND TERM OF OFFICE</u>	5
3.6 <u>REMOVAL OF DIRECTORS</u>	5
3.7 <u>VACANCIES</u>	5
3.8 <u>ORGANIZATION MEETINGS</u>	5
3.9 <u>REGULAR MEETINGS</u>	5
3.10 <u>SPECIAL MEETINGS</u>	6
3.11 <u>WAIVER OF NOTICE</u>	6
3.12 <u>QUORUM OF BRAEBURN II BOARD OF DIRECTORS</u>	6
3.13 <u>COMPENSATION</u>	6
3.14 <u>OPEN MEETINGS</u>	6
3.15 <u>EXECUTIVE SESSION</u>	6
3.16 <u>ACTION WITHOUT A FORMAL MEETING</u>	6
3.17 <u>TELEPHONIC PARTICIPATION</u>	7
3.18 <u>POWERS</u>	7
3.19 <u>MANAGEMENT AGENT</u>	7
3.20 <u>BORROWING</u>	8

ARTICLE 4 OFFICERS 8

4.1 OFFICERS 8

4.2 ELECTION, TERM OF OFFICE, AND VACANCIES 8

4.3 ADDITIONAL OFFICERS AND AGENTS..... 8

4.4 SALARIES 8

4.5 REMOVAL 8

4.6 PRESIDENT 8

4.7 VICE PRESIDENT 8

4.8 SECRETARY..... 9

4.9 TREASURER..... 9

4.10 RESIGNATION 9

ARTICLE 5 MISCELLANEOUS..... 9

5.1 FISCAL YEAR 9

5.2 PARLIAMENTARY RULES..... 9

5.3 CONFLICTS 9

5.4 ELECTRONIC RECORDS, SIGNATURES AND DOCUMENTS..... 10

5.5 AMENDMENT 10

BYLAWS
OF
BRAEBURN TOWNHOME II ASSOCIATION, INC.

Article 1
Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Braeburn Townhome II Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in that certain Supplementary Declaration of Protective Covenants and Easements for Braeburn (as amended, supplemented, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Supplementary Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Supplementary Declaration, unless the context shall prohibit, or the meanings given in the Declaration of Protective Covenants and Easements for Braeburn or the Georgia Nonprofit Corporation Code (O.C.G.A. Section 14-3-101, *et seq.*) (the "Nonprofit Code"). Statutory references shall be construed as meaning the referenced statute or portion thereof as the same may exist from time to time.

Article 2
Association: Meetings, Quorum, Voting, Proxies

2.1 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Braeburn II Board of Directors, either in the Braeburn II Neighborhood or as convenient thereto as possible and practical.

2.2 Annual Meetings. There shall be an annual meeting of the members at such date, place and time as the Braeburn II Board of Directors shall determine to receive the reports of the outgoing Braeburn II Board of Directors, to install directors for the ensuing year and to transact such other business as may come before the meeting.

2.3 Special Meetings. The President or the Braeburn II Board of Directors may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association upon the delivery of a petition signed and dated by members entitled to cast at least twenty-five percent (25%) of the total eligible Association vote and describing the purpose or purposes for which it is to be held. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose(s) thereof. No business shall be transacted at a special meeting, except those matters that are within the purpose or purposes described in the notice.

2.4 Record Date. The Braeburn II Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

2.5 Notice of Meetings. It shall be the duty of the Secretary or such other agent as the Association may designate to mail or to cause to be delivered to each member (as shown in the records of the Association as of the record date) a written notice of each annual or special meeting of the Association stating the date, time and place where it is to be held and, if and to the extent required by the Nonprofit Code or other applicable law (the "Governing Law"), the purpose(s) thereof. Such notice shall be delivered personally or sent by United States mail, postage prepaid, statutory overnight delivery, or sent by electronic transmission in accordance with the Nonprofit Code to all members of record at the address shown in the Association's current records. If an Owner wishes notice to be given at an address other than the Braeburn II Lot, the Owner shall designate by notice in writing to the Secretary such other address. Notices shall be mailed or delivered not less than ten (10) days (or if notice is mailed by other than first-class or registered mail, thirty (30) days) nor more than sixty (60) days in advance of any annual, regularly scheduled or special meeting. If any meeting of the members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If, however, a new record date is or must be fixed under the Governing Law, notice of the adjourned meeting shall be given to persons who are members of record as of the new record date.

2.6 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing or by electronic transmission signed by the member entitled to notice and delivered to the Association for inclusion in the minutes for filing with the Association's records, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of lack of notice or defective notice, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

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, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.8 Membership List. After the record date for any meeting is established by the Braeburn II Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection by any member or a member's agent or attorney: (1) on a reasonably

accessible electronic network, provided that the information required to gain access to such list is included with the notice of the meeting or upon request; or (2) during ordinary business hours at the Association's principal office or at such other reasonable place as may be specified in the notice in the city where the meeting will be held. In the event that the Association makes the list available on an electronic network, the Association may take reasonable steps to ensure that such information is available only to members of the Association. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

2.9 Voting. The voting rights of the members shall be as set forth in the Articles of Incorporation and the Supplementary Declaration, and such voting rights are specifically incorporated herein.

2.10 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxy appointment forms shall be in writing, signed either personally or by an electronic transmission, dated, and filed with the Secretary before the appointed time of each meeting. An electronic transmission must contain or be accompanied by information acceptable to the Braeburn II Board from which it can be determined that the member, the member's agent, or the member's attorney-in-fact authorized the electronic transmission. Proxies may be delivered to the Braeburn II Board of Directors by personal delivery, U.S. mail or electronic transmission to the Secretary or other officer or agent authorized to tabulate votes. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of notice by the Secretary of the death or judicially declared incompetence of a member; (b) receipt by the Secretary or other officer or agent authorized to tabulate votes of written revocation signed by the member; (c) receipt by the Secretary or other officer or agent authorized to tabulate votes of a subsequent appointment form signed by the member; (d) attendance by the member and voting in person at any meeting; or (e) the expiration of eleven (11) months from the date of the proxy appointment form.

2.11 Quorum. The presence, in person or by proxy, of members entitled to cast at least twenty-five percent (25%) of the votes entitled to be cast at the meeting shall constitute a quorum at all meetings of the Association. 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.

2.12 Action By Written Consent. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed, either personally or by an electronic transmission, and dated by members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first member signs a consent. Such action shall be approved when the Secretary receives a sufficient number of such consents dated within seventy (70) days of the record date for such action. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives written notice of the approval to all members who did not sign a consent. Each consent in writing or by electronic transmission shall be included in the minutes of meetings of members filed in the permanent records of the Association. No consent in writing or by electronic transmission

shall be valid unless: (1) the consenting member has been furnished the same material that, pursuant to the Nonprofit Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished.

2.13 Action By Written Ballot. Any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by ballot in writing or by electronic transmission as provided herein. The Association shall deliver a ballot in writing or by electronic transmission to each member entitled to vote on the matter. The ballot in writing or by electronic transmission shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by ballot in writing or electronic transmission shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely ballot in writing or by electronic transmission received by the Association may not be revoked. Approval by ballot in writing or by electronic transmission of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The results of each action by ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

Article 3

Board of Directors: Number, Powers, Meetings

3.1 Governing Body; Composition. The affairs of the Association shall be governed by the Braeburn II Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Braeburn II Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Braeburn II Lot.

3.2 Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any member or members of the Braeburn II Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the date on which all of the Braeburn II Lots planned by Declarant to be a part of the Braeburn II Neighborhood shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (b) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Braeburn II Neighborhood.

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Braeburn II Board of

Directors shall consist of one (1) to three (3) members as determined by Declarant in writing from time to time. Thereafter, the Braeburn II Board shall consist of three (3) directors, who shall be elected as provided in Section 3.5 below.

3.4 Nomination of Directors. Elected directors may be nominated from the floor, if a meeting is held for the election of directors and may also be nominated by a nominating committee, if established by the Braeburn II Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 or Section 2.13 in lieu of a meeting) and the members shall elect three (3) directors as follows: the initial term of two (2) directors shall be fixed at two (2) years and the initial term of one (1) director shall be fixed at one (1) year. Thereafter, all successors shall be elected to a term of two (2) years. At annual meetings thereafter (or pursuant to Section 2.12 or Section 2.13 in lieu of a meeting), directors shall be elected as necessary to fill vacant seats on the Braeburn II Board and to preserve the scheme of staggered terms with one more or one less director being elected each year than in the previous year. All eligible members of the Association may vote on all directors to be elected, and the candidates receiving the most votes shall be elected. Notwithstanding anything herein to the contrary, the members of the Braeburn II Board of Directors shall continue in office until their respective successors shall have been elected and take office.

3.6 Removal of Directors. At any annual, regular or special meeting of the Association, any one (1) or more of the members of the Braeburn II Board of Directors elected by the members may be removed, with or without cause, by a majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. The notice of the meeting shall state that the purpose or one of the purposes, of the meeting is removal of a director. A director whose removal by the members has been proposed shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Braeburn II Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors. This Section shall not apply to directors appointed by the Declarant.

3.7 Vacancies. Vacancies in the Braeburn II Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors. Each Person so selected shall serve the unexpired portion of the term.

3.8 Organization Meetings. The first meeting of a newly elected Braeburn II Board of Directors shall be held within ten (10) days after the election at such time and place as the directors may conveniently assemble.

3.9 Regular Meetings. Regular meetings of the Braeburn II Board of Directors may be held at such time and place as shall be determined from time to time by the Braeburn II Board. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.10 Special Meetings. Special meetings of the Braeburn II Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the date, time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery (including commercial delivery service) to such director's home or office; (b) written notice by first class mail, postage prepaid; (c) by telephone communication (including facsimile), either directly to the director or to the director's home or office; or (d) issued electronically in accordance with the Nonprofit Code, if the director has consented in writing to such method of delivery and has provided the Braeburn II Board with an address regarding the same. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited with the U.S. Postal Service at least four (4) days before the date of the meeting. Notices given by personal delivery, electronic transmission or telephone shall be given at least two (2) days before the day of the meeting.

3.11 Waiver of Notice. The business transacted at any meeting of the Braeburn II Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes either in writing or by electronic transmission which is included in the minutes or filed with the official records of the Association. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Quorum of Braeburn II Board of Directors. At all meetings of the Braeburn II Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Braeburn II Board of Directors.

3.13 Compensation. No director shall receive any compensation from the Association for acting as such.

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

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

3.16 Action Without A Formal Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing or

by electronic transmission, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.17 Telephonic Participation. One or more directors may participate in and vote during any meeting of the Braeburn II Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Braeburn II Board.

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

- (a) preparing and adopting an annual budget in which there shall be established the contribution of each member to the common expenses;
- (b) making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;
- (c) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (d) opening bank accounts on behalf of the Association and designating the signatories required;
- (e) keeping books with detailed accounts of the receipts and expenditures of the Association; and
- (f) authorizing contracts on behalf of the Association.

3.19 Management Agent. The Braeburn II Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Braeburn II Board of Directors to perform such duties and services as the Braeburn II Board of Directors shall authorize. Declarant, or an affiliate of Declarant, may be employed as managing agent or manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice.

3.20 Borrowing. The Braeburn II Board of Directors shall have the power to borrow money without the approval of the members of the Association, the Braeburn II Board shall obtain membership approval in the same manner as for special assessments, in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

Article 4 Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Braeburn II Board of Directors. This provision shall not apply to officers appointed by the Declarant.

4.2 Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association, the officers of the Association shall be appointed annually by the Braeburn II Board of Directors at the first meeting of the Braeburn II Board of Directors following the election of directors. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Braeburn II Board of Directors for the unexpired portion of the term.

4.3 Additional Officers and Agents. The Braeburn II Board of Directors may appoint such other officers, including vice presidents, assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Braeburn II Board of Directors.

4.4 Salaries. The officers shall receive no compensation.

4.5 Removal. Except for officers appointed by the Declarant, any officer may be removed, with or without cause, by the Braeburn II Board of Directors.

4.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall keep the Braeburn II Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Braeburn II Board of Directors.

4.7 Vice President. The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when

so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Braeburn II Board or delegated to a Vice President by the President.

4.8 Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Braeburn II Board of Directors; notify the members and directors of meetings as provided by these Bylaws and Georgia law; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of any officer of the Association; and perform such other duties as the President, or the Braeburn II Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.9 Treasurer. The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Braeburn II Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Braeburn II Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Braeburn II Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

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

Article 5 Miscellaneous

5.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Braeburn II Board.

5.2 Parliamentary Rules. *Roberts Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation of the Association, the Declaration or these Bylaws.

5.3 Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation of the Association, the Supplementary Declaration and these Bylaws, the provisions of Georgia law, the Supplementary Declaration, the Articles of Incorporation of the Association and the Bylaws (in that order) shall prevail.

5.4 Electronic Records, Signatures and Documents. To the extent permitted by the Uniform Electronic Transaction Act, O.C.G.A. § 10-12-1, *et seq.*, the Nonprofit Code, the Supplementary Declaration and these Bylaws, the Association and its members, officers, directors, Owners and Occupants may perform any obligation or exercise any right by use of electronic means providing sufficient security, reliability, identification and verifiability, which electronic means have been approved by the Braeburn II Board of Directors in its sole discretion.

5.5 Amendment.

(a) By the Board. These Bylaws may be amended by the Braeburn II Board of Directors with the consent of the Declarant if such amendment is necessary to: (i) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (ii) enable any title insurance company to issue title insurance coverage with respect to the Braeburn II Lots subject to the Declaration; (iii) enable an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase Mortgage loans on the Braeburn II Lots subject to the Declaration; or (iv) enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Braeburn II Lots subject to the Declaration.

(b) By the Declarant. Declarant may unilaterally amend these Bylaws for any purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner to use and enjoy such Owner's Braeburn II Lot without the consent of the affected Owner nor shall it adversely affect title to a Braeburn II Lot without the consent of the affected Owner.

(c) By the Members. In addition, these Bylaws may be amended upon the affirmative vote, written consent or any combination of affirmative vote and written consent of Owners of at least two-thirds (2/3) of the Braeburn II Lots and the consent of Declarant.