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AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS  
FOR  
BYRNWYCK SUBDIVISION

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8/14/03

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- TABLE OF CONTENTS -

	<u>Page Number</u>
ARTICLE I: NAME .....	-2-
ARTICLE II: DEFINITIONS .....	-2-
ARTICLE III: DESCRIPTION OF SUBMITTED PROPERTY .....	-4-
ARTICLE IV: ASSOCIATION POWERS & DUTIES .....	-4-
4.1    Purposes, General Powers and Duties of the Association. ....	-4-
4.2    Rights and Restrictions. ....	-4-
4.3    Entry of Lots. ....	-4-
ARTICLE V: COVENANT COMPLIANCE COMMITTEE .....	-5-
5.1    Purpose, Powers and Duties of the Covenant Compliance Committee. ....	-5-
5.2    Membership. ....	-5-
5.3    Compliance with Use Restrictions and Minimum Architectural Standards .....	-5-
5.4    Appeal Process.....	-5-
5.5    Limitation on Liability .....	-6-
5.6    Enforcement.....	-6-
ARTICLE VI: USE RESTRICTIONS.....	-7-
6.1    Residential Use.....	-7-
ARTICLE VII: MINIMUM ARCHITECTURAL STANDARDS.....	-7-
7.1    Building Type .....	-7-
7.2    Dwelling Size.....	-7-
7.3    Additions.....	-7-
7.4    Vehicles, Parking .....	-8-
7.5    Construction Materials.....	-8-
7.6    Temporary Structures .....	-9-
7.7    Additional Streets, Roads or Driveways .....	-9-
7.8    Fencing .....	-9-
7.9    Sight Distance at Intersections.....	-9-
7.10   Easements .....	-9-
7.11   Playground Equipment .....	-9-
7.12   Landscaping .....	-10-
7.13   Mailboxes.....	-10-

7.14	Air-Conditioning Units .....	-10-
7.15	Animals and Pets .....	-10-
7.16	Nuisance.....	-10-
7.17	Antennae .....	-10-
7.18	Rubbish, Trash and Garbage.....	-11-
7.19	Sewage Disposal .....	-11-
7.20	Signs. ....	-11-
7.21	Lighting.....	-11-
7.22	Drainage.....	-11-
ARTICLE VIII: GENERAL .....		-11-
8.1	Enforcement.....	-11-
8.2	Amendment.....	-12-
8.3	Severability. ....	-13-
8.4	Captions.....	-13-
8.5	Notices. ....	-13-
8.6	Duration .....	-13-
8.7	Implied Rights.....	-14-
8.8	Preparer.....	-14-
EXHIBIT "A" - LEGAL DESCRIPTION.....		-15-
EXHIBIT "B" - CONSENT OF OWNER.....		-16-

AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS  
FOR  
BYRNWYCK SUBDIVISION

THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS FOR BYRNWYCK SUBDIVISION is made on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

W I T N E S S E T H

WHEREAS, Byrnwyck Associates, a joint venture composed of Robert E. Lanier Construction Company and Eastward Development, Inc. (“hereinafter referred to as “Declarant”) executed certain Protective Covenants for Byrnwyck Subdivision, which was recorded on December 3, 1980 in Deed Book 4383, Page 18, et seq., DeKalb County, Georgia records; and a majority of the Owners in Byrnwyck Subdivision executed that certain Amendment to the Protective Covenants for Byrnwyck Subdivision, which was recorded on November 30, 2000 in Deed Book 11726, Page 144, et seq., aforesaid records (collectively hereinafter as amended the “Original Declaration”); and

WHEREAS, Byrnwyck Community Association, Inc. (the “Association”) is a non-profit corporation organized under the Georgia Nonprofit Corporations Code to manage and maintain certain common areas within the Byrnwyck Subdivision; and

WHEREAS, the Owners desire to amend the Original Declaration as set forth herein and intend for this Declaration to be prospective only, effective from the date of execution; and

WHEREAS, pursuant to Section 17(b) of the Original Declaration, the Original Declaration may be amended by the agreement of fifty-one percent (51%) of the persons owning lots in the Byrnwyck Subdivision; and

WHEREAS, at least a majority of the current Owners of Lots in the Byrnwyck Subdivision desire to amend the Original Declaration, as evidenced by their signatures attached as Exhibit “B” to this Amendment; and

WHEREAS, the Association has joined in this amendment to document that it has agreed to undertake the obligations of appointing Lot Owners to serve on or in the alternative to undertake the duties of the Covenant Compliance Committee as set forth in this Amendment; and

WHEREAS, this Amended and Restated Declaration does not alter, modify, change, or rescind any right, title, interest or privilege held by any mortgage holder of any Lot; provided, however, in the event a court of competent jurisdiction determines that this Amended and Restated Declaration does alter, modify, change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holder's consent in writing to this Amended and Restated Declaration, then this Amended and Restated Declaration shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this Amended and Restated Declaration, and if such consent is not forthcoming, then the provisions of the Original Declaration prior to this Amended and Restated Declaration shall control with respect to the affected mortgage holder; and

NOW THEREFORE, the undersigned hereby adopt this Amended and Restated Declaration of Protective Covenants for Byrnwyck Subdivision, hereby declaring that all the property now or hereafter subject to the Original Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, as follows:

#### ARTICLE I NAME

The name of the property is Byrnwyck Subdivision, which property is a residential property owner's development. Certain lots are also subject to a separate Declaration of Protective Covenants and Permanent Membership for Byrnwyck created in 2001 by the merger of the original Byrnwyck Homeowners Association and the original Byrnwyck Swim and Tennis Association into the Byrnwyck Community Association and established under the Georgia Property Owners' Associations Act, O.C.G.A. § 44-3-220, et seq (the "Act"). This Declaration shall supplement the separate declaration but shall apply to all lots in the subdivision, including those that are not subject to the Act or the separate declaration.

#### ARTICLE II DEFINITIONS

The terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Georgia Nonprofit Corporations Code. Certain terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as follows:

2.1 "Act" shall mean the Georgia Property Owners Association Act, O.C.G.A. § 44-3-220, et seq.

2.2 "Articles of Incorporation" shall mean the Articles of Incorporation of Byrnwyck Community Association, Inc., filed with the Secretary of State of Georgia, as amended from time to time.

2.3 "Association" shall mean Byrnwyck Community Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

2.4 “Board” or “Board of Directors” shall mean the elected body responsible for management and operation of the Association as further described in the Bylaws.

2.5 “Bylaws” shall mean the amended and restated Bylaws of Byrnwyck Community Association, Inc.

2.6 “Covenant Compliance Committee” or the “CCC” shall mean that independent committee comprised of not less than three Lot Owners appointed by the Board of Directors or selected by the Lot Owners as provided in this Declaration to serve the functions defined by this Declaration, or in the absence of such designation, the Board of Directors shall appoint a subcommittee of the Board to function as the Covenant Compliance Committee, except as herein provided.

2.7 “Declaration” means this Amended and Restated Declaration of Protective Covenants for Byrnwyck Subdivision.

2.8 “Lot” shall mean that portion of the property as shown on the plats for Byrnwyck Subdivision that is intended for ownership and use as a single-family dwelling site as shown on said plats.

2.9 “Majority” means those eligible votes by Lot Owners or representatives of Lot Owners or members of any other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

2.10 “Mortgage” shall refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation.

2.11 “Mortgagee” means the holder of any Mortgage.

2.12 “Occupant” means any Person occupying all or any portion of a Lot for any period of time regardless of whether such Person is a tenant or the Owner of such property.

2.13 “Owner” means any record title holder of a Lot within Byrnwyck Subdivision, but shall not include a Mortgagee.

2.14 “Person” means any individual, corporation, firm, association, partnership, trust, or other legal entity.

2.15 “Plat” means the plat(s) of survey of Byrnwyck Subdivision filed with the Clerk of Superior Court of DeKalb County, Georgia, as may be amended from time to time.

2.16 “Property” shall mean that real estate in Byrnwyck Subdivision submitted to the provisions of this Declaration and more particularly described in Exhibit “A.”

2.17 “Subdivision” shall mean and refer to Byrnwyck Subdivision.

ARTICLE III  
DESCRIPTION OF SUBMITTED PROPERTY

The Subdivision subject to this Declaration is located in Land Lot 328 of the 18th District of DeKalb County, Georgia, being more particularly described in Exhibit “A” attached to this Declaration and incorporated herein by this reference.

ARTICLE IV  
ASSOCIATION POWERS & DUTIES

4.1 Purposes, General Powers and Duties of the Byrnwyck Community Association, Inc.. The Association has been formed as a non-profit civic organization for the purpose of performing certain functions for the common good and general welfare of the Owners as provided by the Declaration of Protective Covenants and Permanent Membership for Byrnwyck and Amended Restated Bylaws of the Byrnwyck Community Association, Inc. The Association shall have no power or duty to do or perform any act or thing other than those acts and things that promote in some way the common good and general welfare of the Owners. To the extent necessary to carry out such purposes, the Association shall (i) have all of the powers of a corporation organized under the Georgia Non-Profit Corporations Code, and (ii) have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration. The Association shall not be liable for any injury suffered by any person or for any property damage which is caused by the conduct or omission of any Lot Owner or such Lot Owner’s family, tenant, invitee, or licensee.

4.2 Rights and Restrictions. The Association, acting through its Board of Directors, shall have the right and authority, in addition to other rights it may have:

(a) to make and enforce reasonable rules and regulations governing the use of the Property;

(b) to enforce the provisions of this Declaration and its rules and regulations. These powers, however, shall not limit any other legal means of enforcing the Declaration and rules and regulations by either the Association or, in an appropriate case, by an aggrieved Owner;

(c) to acquire, hold and dispose of tangible and intangible personal property and real property; and

(d) to impose reasonable fines (not in excess of \$50 per day per violation) for any violation of the rules and regulations as are determined by the Board of Directors of the Association.

4.3 Entry of Lots. The Association shall have the right to enter onto Lots for emergency, security, safety, or maintenance purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during business hours and after written notice to the Owner or Occupant of the Lot.

## ARTICLE V COVENANT COMPLIANCE COMMITTEE

5.1 Purpose, Powers and Duties of the Covenant Compliance Committee. A Covenant Compliance Committee (the "CCC") is established for the purpose of assuring that the installation, construction, or alteration of any structure on any Lot is in conformity and harmony in external design and general quality with the existing standards of the neighborhood and with the standards of the development of the property, and that the location of structures on the Lots is compatible and harmonious with the topography of the Property and with the finished ground elevation of the subdivision and surrounding structures. To the extent necessary to carry out such purpose, the CCC shall have the powers and authority as set forth in this Declaration.

5.2 Membership. The CCC, comprised of at least three Lot Owners, shall constitute a standing committee of the Association. The Board may delegate such authority to individual Lot Owners by resolution, or the Board may call for a special election by the Association to select the Lot Owners to whom the authority shall be delegated. The members of the CCC shall serve for a term to be determined by the Board (in their sole discretion) and the Board shall have the right at any time to replace or remove a member of the CCC. In the event that members of the CCC are not otherwise designated, the CCC shall consist of a subcommittee of the Board of Directors. Neither the members of the CCC nor its designated representatives shall be entitled to compensation to themselves for services performed pursuant to this Article. Lot Owners may initiate the process for re-calling a CCC member in the following manner: A recall petition containing forty (40) Lot Owner signatures must be presented to the Board requesting the resignation of the offending CCC member. Then the Board may request the resignation of the offending member or may conduct a special meeting of Lot Owners, at which a majority of those attending and those voting by proxy may decide whether to recall the offending CCC member.

5.3 Compliance with Use Restrictions and Minimum Architectural Standards. Lot Owners shall submit to the CCC plans for any exterior changes to their property for approval unless the proposed changes fall within standards set forth below in Articles VI and VII. The CCC may consider the nature, kind, shape, height, materials, location, color and time of completion of any proposed change as well as whether the change is in harmony with the external design, the location in relation to surrounding buildings, and finish grade elevation. No alterations may be made in approved plans or specifications without further approval by the CCC. The minimum standards to be applied to all residential Lots are set forth below in Articles VI and VII.



5.4 Appeal Process. In the event the CCC or its designated representatives (including any subcommittee of the Board of Directors acting as the CCC) fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will be deemed to have been given. In order to provide Owners and the Association with an economical and more rapid review of any adverse decision by the CCC (including any subcommittee of the Board of Directors acting as the CCC), the denial of approval of plans submitted in compliance with this Section to the CCC shall be final and binding unless the Owner submits a request to the Board of Directors within fifteen (15) business days of the date of the notice of denial of approval appealing the decision of the CCC and requesting a review by the full Board of Directors (Board members acting as members of the CCC shall recuse themselves). Denials of approval due to the failure of the Lot Owner to submit plans, specifications, drawings, and other materials reasonably requested by the CCC may not be appealed. In the event of a permitted appeal to the full Board of Directors, the Owner shall provide to the Board a written statement of the grievance along with the written decision of the CCC. The full Board shall then review the grievance and the materials submitted to the CCC and shall, within thirty (30) days of the receipt by the Board of the written notice, either (i) issue a decision approving, modifying, or reversing the decision of the CCC, or (ii) hold a further hearing at which the aggrieved Lot Owner and a representative of the CCC shall be entitled to present their positions. In the event such a hearing is held, the Board shall issue a decision on the grievance within five (5) business days following the date of the hearing. A Lot Owner whose proposal has been denied by the CCC and the Board has a final right of appeal through the following process: The appealing Lot Owner shall, within thirty (30) days of notification of the denial by the Board, collect forty (40) signatures on a petition which shall require the Board to call and conduct a special Lot Owner meeting at which a majority of Lot Owners attending and those voting by proxy can reverse the denial by the CCC and the Board.

5.5 Limitation on Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither the Board of Directors nor the CCC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes or other governmental requirements. Neither the Board of Directors, nor the CCC, nor any member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot.

5.6 Enforcement. Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be nonconforming. Upon written request from the CCC, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. The CCC shall have the authority and standing, on behalf of the Association, to impose reasonable fines, to collect the fines, and to pursue all legal and equitable remedies available to enforce the provisions of this Section.

ARTICLE VI  
USE RESTRICTIONS

6.1 Residential Use. No Lot shall be used except for residential purposes. Leasing of a Lot for residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant in residence at the Lot may conduct business activities within the house so long as the business activity: (a) does not otherwise violate the provisions of the Declaration or Bylaws; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Subdivision; (e) is consistent with the residential character of the Subdivision; (f) does not constitute a nuisance or a hazardous or offensive use; and (g) does not threaten the security or safety of other residents of the Subdivision, all as may be determined in each case in the sole discretion of the CCC. The term “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 service 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: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity.

ARTICLE VII  
MINIMUM ARCHITECTURAL STANDARDS

7.1 Building Type. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling not to exceed three (3) stories (exclusive of basement, if any) in height and one (1) detached private carport or garage for not more than four (4) vehicles. Building area set-backs shall be within the recommended building lines indicated on the recorded subdivision plats of the development.

7.2 Dwelling Size. No single level above ground single family detached residential building shall be constructed on any Lot unless said building shall have at least two thousand two hundred (2,200) square feet of heated living space. Any such building which exceeds one (1) story in height shall not have less than two thousand five hundred (2,500) square feet of heated living space above ground. No such building shall exceed three (3) stories in height, but nothing herein shall be construed as to prevent the construction of residential buildings designed as “split level,” such buildings being ones in which floor levels of habitable spaces are separated so that ground levels are in differing elevations, and part of said dwelling is three (3) stories in height. In the case of split level buildings, there shall not be less than two thousand two hundred (2,200) square feet of heated living space on the two (2) ground floor elevations.

7.3 Additions. Additions to family residential structures including new rooms, screened decks, porches, or patio areas must be in conformity with the existing structures and with existing standards and covenants of the neighborhood. No additional driveways, parking areas or other entrances to lots except the principal driveway to the family residential structure shall be constructed unless specifically approved in writing by the CCC. Silver-finished aluminum front doors shall not be approved. Factory-painted or anodized finish aluminum may be used.

7.4 Vehicles, Parking. Adequate off-street parking shall be provided by the Owners of the Lots for the parking of vehicles owned by such Owners, and said Owners must not park their vehicles on the adjacent roads and streets as a matter of course. Mobile homes, motor homes, recreational vehicles, campers, trailers of any kind, boats, personal water craft, golf carts, trucks with a load capacity of one (1) ton or more, buses, vans (excluding mini-vans or sport utility vehicles used as passenger vehicles and receiving a “car” or “passenger vehicle” classification by the Georgia Department of Motor Vehicles), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors shall not be permitted to be kept, parked, or stored on the street or on any Lot for more than forty-eight (48) hours without express consent of the CCC; however, such restriction shall not prohibit any Owner from keeping, parking or storing such vehicle inside an enclosed garage. Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular-basis for transportation. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the streets and in the driveways during normal business hours for the purpose of serving any Lot.

No vehicle that is inoperative or disabled shall be permitted to remain parked on the street for more than seventy-two (72) hours. No vehicle that is inoperable or undergoing repairs or not currently licensed can be left in public view in the driveway, in the yard, or on the street for more than 14 days, and no such derelict vehicle can be placed on cinder blocks in public view. Such vehicles can, however, be stored within an enclosed garage. Provided that all applicable provisions of state law and local ordinances are complied with, and provided that the offending vehicle is posted with a 72-hour written notice of possible future towing, the Board or the CCC shall have the express authority to tow from the property vehicles which are in violation of these regulations. All towing shall be done at the expense of the owner of the vehicle. If a vehicle is towed due to violation of this Declaration, neither the CCC nor any officer or agent of the CCC or the Association shall be liable to any person for any claim of damage as a result of the towing activity.

The CCC may exercise any and all remedies available for a violation of this provision in addition to or in lieu of its authority to remove the violating vehicle.

7.5 Construction Materials and Colors. Whenever buildings or retaining walls erected on any Lot or parcel are constructed in whole or in part of concrete, concrete blocks,

cinder blocks or other fabricated masonry block units (except for brick), the entire surface of such block exposed above finish grade shall be veneered with brick, natural stone, stucco approved by the CCC or such other material approved by the CCC. Driveways shall be constructed with concrete or other hard surface materials. A minimum number of exterior materials shall be used on structures to avoid a cluttered appearance.

Exterior colors and materials, including roofing material, shall be similar in hue and tone to the existing neutral colors and color combinations in the Byrnwyck subdivision. Any exterior color that is not similar in hue and tone to existing colors in Byrnwyck must have the express approval of the CCC.

7.6 Temporary Structures. No temporary house, and no temporary or permanent building, shack, church, mobile home, tent, barn or other out-building shall be erected or placed upon any Lot, except that the CCC shall have the discretion to approve such structures for temporary placement on the Lot only. Storage sheds and playhouses will be allowed as long as they are not visible from the street and as long as the affected neighbors have given prior permission.

7.7 Additional Streets, Roads or Driveways. No streets, roads or driveways shall be opened through any Lot to serve adjoining property except as has been previously provided for by plat or survey duly recorded by Declarant or as might hereinafter be approved in writing by the CCC.

7.8 Fencing. Acceptable fence materials are natural or painted wood, wrought iron, stone, brick, or dark vinyl covered chain link. Fences shall be a maximum of six feet above grade in height, and should not be placed on any Lot closer to the street than the front of the house. For corner lots, fences must observe the sight distance guidelines as defined in 7.9 below and easements regulations as defined in 7.10 below and observe county required setback from the road. For safety purposes, private swimming pools must be enclosed by a fence in compliance with county regulations.

7.9 Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within fifteen (15) feet from the intersection of the street lines. Lot Owners shall trim overgrown trees and shrubs near curbs when growth of such plants impedes or obstructs pedestrian and vehicular traffic, limits the visibility of road signage or obstructs street lights.

7.10 Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten (10) feet of each Lot. Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as designated above or on the recorded plat.

7.11 Playground Equipment. All permanent or semi-permanent playground equipment must be placed on the rear of the Lot. All tree houses and playhouses shall be placed on the rear

of the lot unless prior approval has been obtained from the CCC for an alternate location. Permanent basketball goals and other sports equipment should be placed at the rear or side of the house, if at all possible.

7.12 Landscaping. The grounds of each Lot shall be maintained in a neat and attractive condition. If the Lot falls into a state of neglect with overgrown grass, weeds, debris, or dead trees, the CCC, after ten (10) days written notice to such Owner, may have the grass, weeds, and other vegetation or debris cut or removed when, and as often, as the same is necessary in the judgment of the CCC. The Owner shall be responsible for the cost of any such removal or maintenance expense.

7.13 Mailboxes. Individual Owners shall maintain a standard black mailbox with a door that is supported by a brick, stone, or stucco pillar, or a wrought iron or wood support, or such other support column as is approved in writing by the CCC.

7.14 Air-Conditioning Units. No window air-conditioning units which are visible from the street will be permissible without the prior approval of the CCC.

7.15 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in reasonable number. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall at all times, when outside the house, be either restrained by (1) fencing, (2) electric fencing, or (3) when outside the yard, on a leash. All pets shall be registered, licensed and inoculated as required by law. No pets shall be allowed to become a nuisance. An Owner shall not allow any animal waste to remain on any property other than the Lot owned or occupied by the owner of the animal

7.16 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Lot. No property within the Subdivision shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition; nor shall any substance, thing or material be kept that will emit foul odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No activity that is noxious or offensive shall be carried on within the Subdivision. No plants, animals, device or thing of any sort shall be maintained in the Subdivision whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Subdivision by other Owners and Occupants. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device, except for devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

7.17 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting of radio or video signals shall be placed, allowed or maintained upon any portion of the Subdivision, including any Lot, unless approved by the CCC; provided,

however, no such approval shall be necessary to install antennas that are one meter or less in diameter and that are (a) designed to receive direct broadcast satellite services, including direct-to-home satellite services, (b) designed to receive video programming services via multi-point distribution services, or (c) designed and intended to receive television broadcast signals.

7.18 Rubbish, Trash and Garbage. All rubbish, trash, garbage, and construction debris shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. Trash, garbage or other waste shall be kept in standard trash containers and shall be kept inside an enclosure or at the side or rear of the dwelling. It is permissible to keep such containers outside of such enclosure for a period of no more than twenty-four (24) hours to facilitate sanitation collection by appropriate authorities. Construction dumpsters are not allowed in the street, must be regularly emptied, and must be removed as quickly as possible; they must be in compliance with county guidelines.

7.19 Sewage Disposal. No individual sewage disposal system shall be permitted on any Lot, unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Georgia Department of Public Health. Approval of such systems as installed shall be obtained from such authority.

7.20 Signs. An Owner shall have the right to erect reasonable and appropriate signs, including real estate marketing signs, construction signs, security signs, congratulatory signs, political signs or temporary garage sale signs not larger than 24-inches by 24-inches, and any signs required by legal proceedings may be erected upon any Lot. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure. Vendor and contractor signs must be removed within two weeks of completion of work, and political signs must be removed within two days of the election.

7.21 Lighting. Exterior lighting on any Lot is permitted: (a) as originally installed on a Lot; (b) for seasonal decorative lights; or (c) as security lighting or accent lighting that does not unreasonably interfere with another Lot Owner's use or enjoyment of their property.

7.22 Drainage. Catch basins, retention ponds, detention ponds, drainage easement areas and related drainage facilities are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flows after location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval.

## ARTICLE VIII GENERAL

8.1 Enforcement. Each Lot Owner shall comply strictly with the covenants, conditions, and restrictions set forth in this Declaration. In the event of a violation or breach, or threatened violation or breach, of any of the aforesaid documents, the Association acting through

the Board or, in a proper case, any aggrieved Lot Owner or Owners, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. Should the Association employ legal counsel to enforce any of the foregoing or any other rights or remedies of the Association, or should an aggrieved Lot Owner successfully pursue enforcement of the Declaration against another Lot Owner, all costs incurred in such enforcement, including reasonable attorneys' fees actually incurred, shall be paid by the violating Lot Owner. Inasmuch as the enforcement of the provisions of this Declaration and the rules and regulations herein is essential for the protection of present and future Lot Owners, it is hereby declared that, for any breach thereof which cannot be adequately compensated by recovery of damages, the Association or an aggrieved Lot Owner shall be entitled to a remedy by injunction to restrain any such violation or breach or threatened violation or breach. Further, and except as otherwise provided in this Declaration, in addition to the foregoing remedies, the Association may suspend temporarily the voting rights of a Lot Owner if, after ten (10) days' written notice of such violation, it shall not have been corrected or abated by such Lot Owner. Additionally, the CCC may levy fines against the Lot Owner for such violation in the manner set forth in these covenants, provided that no fine may be levied for more than \$50.00 for any one violation, but each day or time a violation is continued or repeated after written notice is given to the Lot Owner to cease and desist shall be considered a separate violation. Collection of fines may be enforced against any Lot Owner in the manner set forth in the Act for the collection of assessments.

All fines, costs of abatement, and reasonable attorneys' fees actually incurred shall be a charge on such Lot and shall be a continuing lien upon the Lot. All fines, costs of abatement, and reasonable attorneys' fees actually incurred shall also be the personal obligation of the person who was the Owner of such Lot at the time when the charges were levied. Each Owner of a Lot and his or her grantee shall be jointly and severally liable for all amounts constituting a lien against the Lot and charges due and payable at the time of the conveyance. The liens provided for herein shall have priority as set forth in the Act. The sale or transfer of any Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for fines, costs and expenses levied or due prior to such sale or transfer. No other sale or transfer shall relieve such Lot from liability for any fine, cost or expense thereafter levied or due or from the lien thereof. No Lot Owner may exempt himself from liability or otherwise withhold payment of fines, costs and expenses for any reason whatsoever.

No delay, failure or omission on the part of the CCC or any aggrieved Lot Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the CCC for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, of the provisions of this Declaration, or the rules and regulations, however long continued, or for the imposing of provisions which may be unenforceable.

8.2 Amendment. These covenants may be amended at any time by the affirmative

vote, written consent, or any combination of affirmative vote and written consent of fifty-one percent (51%) of the Persons owning Lots in the Byrnwyck Subdivision. All amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified in the amendment.

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

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

8.5 Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at the address of the Lot, to the CCC at the address of the chair of the CCC, and to the Association at the address of its respective registered agent in the State of Georgia. If a notice is required to be sent to the CCC, and the name and address of the chair of the CCC is not posted in public view at the offices of the Association or published in the Association's directory, notice to the CCC may be sent by Certified Mail, Return Receipt Requested, to the registered agent of the Association in the State of Georgia. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be deemed delivered three business days after mailing by United States Registered or Certified Mail, postpaid, or upon delivery when delivered in person, including delivery by Federal Express or other reputable courier service; provided, however, that a notice sent to the CCC addressed to the registered agent of the Association shall be deemed delivered ten business days after mailing. Notwithstanding other provisions of this section, notices shall be deemed effective as of the date deposited in the United States mail in the manner required for notices.

8.6 Duration. These covenants and restrictions contained herein shall run with the land and shall bind all parties and persons claiming under them perpetually to the extent permitted by law. However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any covenant affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of twenty (20) years, unless fifty-one percent (51%) of the Persons owning Lots execute a document to terminate the covenants containing a legal description of the entire area affected by the covenant, a list of all Owners affected by the covenant and a description of the covenant to be terminated or such other requirement as provided in O.C.G.A. § 44-5-60. A written instrument reflecting any termination must be recorded no sooner than, but within two years immediately preceding the beginning of a twenty (20) year renewal period. Every purchaser or grantee of any interest (including, without



limitation, a security interest) in any interest (including, without limitation, a security interest) in any real property subject to these covenants, by acceptance of a deed or other conveyance, agrees that the covenants contained herein may be extended and renewed as provided in this Section.

8.7 Implied Rights. The Association may exercise any right or privilege given to it expressly by the Act, this Declaration, the Protective Covenant Guidelines, or any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

8.8 Preparer. This Declaration was prepared by Randall M. Lipshutz and Janet L. Bozeman, Lipshutz, Greenblatt & King, 2300 Harris Tower, Peachtree Center, 233 Peachtree Street N.E., Atlanta, Georgia 30303, and modified by the Board of the Byrnwyck Community Association.

IN WITNESS WHEREOF, the undersigned officers of the Association hereby certify that the above amendment was duly adopted by at least a majority of the owners in the Byrnwyck Subdivision, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed, sealed, and delivered in the presence of:

BYRNWYCK COMMUNITY ASSOCIATION, INC., a Georgia nonprofit corporation

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
President

\_\_\_\_\_  
NOTARY PUBLIC  
(Affix notary seal and date of expiration of commission)

Attest: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Secretary

[AFFIX CORPORATE SEAL]

## EXHIBIT "A"

### LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 328 of the 18<sup>th</sup> District, DeKalb County, Georgia, and more particularly described on those certain plats recorded on the plat records of the Clerk of the Superior Court, DeKalb County, Georgia, as follows: Plat Book 72, page 8 (Unit 1); Plat Book 72, page 15 (Unit 2); Plat Book 74, page 42 (Unit 3); Plat Book 74, page 135 (Unit 4); Plat Book 79, page 101 (Unit 5); Plat Book 76, page 28 (Unit 8); and Plat Book 80, page 144 (Unit 7).

EXHIBIT "B"

CONSENT OF OWNER

The undersigned Owner(s) of a Lot in the Byrnwyck Subdivision hereby approve and consent to the Restated and Amended Declaration of Protective Covenants for Byrnwyck Subdivision, which was adopted by the Board of Directors of the Byrnwyck Community Association on August 14, 2003 and which, among other things, grants authority to the Byrnwyck Community Association, Inc. to administer the provisions of such Declaration, by affixing their signature to this Exhibit "B."

This is the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Lot Address

\_\_\_\_\_  
Lot Address