

Return to: Weissman, Nowack, Curry & Zaleon, P.C.
181 14th Street, 2nd Floor
Atlanta, Georgia 30309

STATE OF GEORGIA
COUNTY OF FULTON

CROSS REFERENCE: Deed Book 7768
Page 163

AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR
PEACHTREE TOWERS, A CONDOMINIUM

WHEREAS, the Declaration of Condominium for Peachtree Towers, A Condominium was recorded on February 9, 1981, in Deed Book 7768, Page 163, et seq., Fulton County, Georgia Records ("Declaration"); and

WHEREAS, the Declaration has been previously amended by amendments recorded in the Fulton County, Georgia records as follows:

<u>Recording Date</u>	<u>Deed Book/Page</u>
July 28, 1981	7910/ 13, <u>et seq.</u> ;
November 27, 1989	12985/244, <u>et seq.</u> ;
November 27, 1989	12985/247, <u>et seq.</u> ;
June 26, 1990	13505/304, <u>et seq.</u> ;
October 5, 1990	13756/010, <u>et seq.</u> ;

CROSS REFERENCE

GEORGIA, FULTON COUNTY
FILED AND RECORDED
1995 JUN -5 AM 8:30
QUANITA HICKS
CLERK, SUPERIOR COURT

WHEREAS, Article VIII, Section 1 of the Declaration provides for amendment of the Declaration by the assent of owners of units to which at least two-thirds (2/3) of the votes in the Peachtree Towers Condominium Association, Inc. ("Association") pertain; and

WHEREAS, members of the Association to which at least two-thirds (2/3) of the total votes in the Association pertain desire to amend the Declaration and have approved this amendment; and

WHEREAS, this amendment is not material with respect to first mortgagees in that it does not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines that this amendment does materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee's consent to this amendment, then this amendment shall not be binding on the first mortgagee so involved, unless such first mortgagee consents to this amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this amendment shall control with respect to the affected first mortgagee;

NOW THEREFORE, the Declaration of Condominium for Peachtree Towers, A Condominium is hereby amended as follows:

1.

Article IV, Section 6 shall be amended by deleting that section in its entirety and substituting therefor the following:

Section 6. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the owner shall be in default.

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

(b) If part payment of assessments and related charges is made, the amount received may be applied:

(i) to costs of collection, including reasonable attorney's fees actually incurred by the Association;

(ii) to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due;

(iii) if the Board so elects, to the fair rental value of the unit during the pendency of suit and prior to satisfaction of any judgment which remains unpaid (The fair rental value of the units, for purposes of this Paragraph, shall be as established from time to time by the Board.); or

(iv) respectively, to any unpaid late charges, interest, specific assessments (including, but not limited to, fines), and installments of the annual assessment or special assessments which are the subject matter of suit in the order which they came due.

(c) If assessments, fines or other charges or any part thereof due from an owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that owner's unpaid installments of the annual assessment and of any special assessment.

If an owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the annual assessment and of any special

assessment, without further notice to the delinquent owner. Upon acceleration, that owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year.

(d) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, the Act and Georgia law and suspend the owner's and/or occupant's right to vote and the right to use the common elements as provided in this Declaration and in the By-Laws (provided, however, the Board may not limit ingress or egress to or from the unit).

(e) In the event any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided in the Act and this Declaration, the Association shall have the right upon ten (10) days written notice, and in compliance with any requirements set forth in the Act, to suspend any utility services, the cost of which are a common expense of the Association, including, but not limited to, water, electricity, heat, air conditioning and cable television, to that unit until such time as the delinquent assessments and all costs permitted pursuant to this Paragraph, including reasonable attorney's fees, are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the unit and shall be collected as provided herein for the collection of assessments.

Notwithstanding the above, the Board may suspend water, electricity, heat or air conditioning service paid for as a common expense only after a final judgment or final judgments in excess of a total of \$750.00, or such other amount as required by the Act, are obtained in favor of the Association from a court of competent jurisdiction, the Association provides the notice required to be provided by the institutional provider of such service prior to suspension of such service, and the Association complies with any other requirements of O.C.G.A. § 44-3-76. The utility services shall not be required to be restored until the judgment or judgments are paid in full.

2.

Article VII shall be amended by adding the following Section 13:

Section 13. Leasing Provisions. Leasing of Residential Units shall be governed by the following provisions:

(a) General. Residential Units may be leased only in their entirety; no fraction or portion may be leased without prior written approval of the Board. Within ten (10) days after executing a lease agreement for the lease of a Residential Unit, the owner shall provide the Board with a copy of the lease, the name of the lessee and all other people occupying the Residential Unit, and the mailing address and telephone number of the lessee.

(b) Compliance With Declaration, By-Laws, and Rules and Regulations, Use of Common Elements, and Liability for Assessments. Each Owner and each lessee, by occupancy of a Residential Unit,

covenants and agrees that any lease for a Residential Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Residential Unit:

(i) Compliance With Declaration, By-Laws, and Rules and Regulations. Lessee hereby acknowledges and represents that Lessee has received from Lessor a copy of Section 3 of the Practices of the Association (the "Rules and Regulations") and has read them and has had the opportunity to read the Declaration of Condominium for the Association (the "Declaration"), the By-Laws of the Association (the "By-Laws"), and that Lessee is bound by such Rules and Regulations, the Declaration and the By-Laws. Lessee and lessor acknowledges that it is the sole duty of Lessor (and not the Association) to furnish to Lessee the Rules and Regulations and that the Association shall make the Declaration and By-Laws available at reasonable times at a location within the Property. The lessee shall comply with all provisions of the Declaration, By-Laws, and Rules and Regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests of the leased Residential Unit in order to ensure compliance with the foregoing. The owner shall cause all occupants of his or her Residential Unit to comply with the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Residential Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and Rules and Regulations adopted pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the owner and the lessee, and such fine may be assessed against the lessee in accordance with Article VIII, Section 9 of the Declaration. If the fine is not paid by the lessee within the time period set by the Board, the owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the unit.

Any violation of the Declaration, By-Laws, or Rules and Regulations adopted pursuant thereto by the lessee, any occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the unit.

(ii) Use of Common Elements. The owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the owner has to use the common elements of the Condominium, including, but not limited to, the use of any and all recreational facilities.

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

(iv) Pets. As provided in Article VII, Section 9 of the Declaration, no pets or animals of any kind shall be kept in the unit or within any other part of the Condominium.

(c) Applicability of this Section 13. Leases existing on the date this Declaration is recorded in the Fulton County land records shall not be subject to the terms of subparagraph (b) above. Such leases may continue in accordance with the terms of the Declaration existing prior to the recording of this amendment. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with subparagraph (b). Any owner of a Residential Unit which is leased on the date this Declaration is recorded in the Fulton County land records shall place on file with the Board a copy of the lease agreement in effect within thirty (30) days of the date on which this Declaration is recorded in the Fulton County, Georgia land records.

This Section 13 shall not apply to any leasing transaction entered into by the holder of any first mortgage on a Residential Unit who becomes the owner of a Residential Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such mortgage.

This Section 13 shall only apply to leasing of Residential Units and shall not apply to Commercial Units.

3.

Article VII is hereby amended by adding the following Section 14:

Section 14. Single Families. No Residential Unit shall be occupied by more than a single family. As used herein, the term "single family" shall mean one (1) or more persons, provided all persons occupying the Residential Unit are interrelated by blood,

adoption, or marriage plus one (1) additional person who is not so related. If persons occupying a Residential Unit are not all interrelated by blood, adoption, or marriage, then the number of persons occupying such Residential Unit shall be limited to a maximum number of persons equal to the number of bedrooms in the Unit (as such bedrooms are depicted on the original plans filed in the Fulton County, Georgia records) plus one (1) additional person.

The words "by blood" shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, nephews, parents, aunts, uncles, and first cousins, and no other degree of kinship. "Marriage" shall include common law marriage as provided for under Georgia law, and "by marriage" shall include in-laws and step-relatives. "Occupancy," for purposes of this Paragraph, shall be defined as staying overnight in a Unit.

This single family occupancy restriction shall not apply to require the removal of any person occupying a Residential Unit on the date on which this amendment to the Declaration is recorded in the Fulton County, Georgia land records.

4.

Article VIII, Section 1 shall be amended by deleting the first sentence of that section in its entirety and substituting therefor the following:

This Declaration may be amended at any time and from time to time by the assent of unit owners having at least two-thirds of the total eligible vote of the Association.

5.

Article VIII, Section 9 shall be amended by deleting that section in its entirety and substituting therefor the following:

Section 9. Enforcement. The Condominium shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of units and the common elements; provided, copies of all such Rules and Regulations shall be furnished to all owners and occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a majority of the total Association vote at an annual or special meeting of the membership. Every owner and occupant shall comply with the Declaration, Bylaws and Rules and Regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved unit owners, to take action to enforce the terms of the Declaration, Bylaws or Rules and Regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the owner's unit, and to suspend an owner's right to vote or to use the common elements for violation of any duty imposed under the Declaration, these By-Laws, or any Rules and Regulations duly adopted hereunder; provided, however,

nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a unit. In the event that any occupant of a unit violates the Declaration, By-Laws, or the Rules and Regulations and a fine is imposed, notice of such violation shall be sent to the owner and occupant, and the fine may first be assessed against such occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the unit until paid. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the common elements (provided, however, if an owner is shown on the books or management accounts of the Association to be delinquent in an amount totalling one month's assessment or more, suspension of the right to vote and the right to use the common elements shall be automatic; provided further, however, suspension of common utility services shall require compliance with the provisions of Article IV, Section 6(e) of the Declaration, where applicable), unless and until the Association has sent or delivered written notice to the violator as provided in subsection (i) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection (ii) below.

(i) Notice. If any provision of the Declaration or By-Laws or any rule or regulation of the Association is violated, the Board shall serve the violator with written notice sent certified mail, return receipt requested, which shall state: i) the nature of the alleged violation; ii) the sanction to be imposed; iii) a statement that the violator may challenge the fact of the occurrence of a violation, the sanction, or both, by written challenge and written request for a hearing before the Board, which request must be received by the Board within ten (10) days of the date of the notice; and iv) the name, address, and telephone number of a person to contact to challenge the proposed action. If a timely challenge is made and the violation is cured within ten (10) days of the date of the notice, the Board, in its discretion, may, but is not obligated to, waive any sanction or portion thereof. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(ii) Hearing. If the alleged violator timely challenges the proposed action, a hearing before the Board shall be held in executive session affording the violator a reasonable opportunity to be heard. The hearing shall be set at a reasonable time and date by the Board, and notice of the time, date (which shall be at least ten (10) days from the giving of notice, unless otherwise consented to by the violator), and place of the hearing and an invitation to attend the hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator. Proof of such notice shall be placed in the minutes of the meeting.

Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or director who delivered or who authorized delivery of such notice. The notice requirement shall be deemed satisfied if the violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

(b) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the By-Laws, or the Rules and Regulations by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in subsection (a) of this Section. In any such action, to the maximum extent permissible, the owner or occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter upon any portion of the common elements to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the By-Laws, or the Rules and Regulations. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating owner.

[Signatures begin on following page]

IN WITNESS WHEREOF, the undersigned officers of Peachtree Towers Condominium Association, Inc., hereby certify that the above Amendment to the Declaration was duly adopted by the required majority of the Association and its membership.

This 18th day of May, 1995.

PEACHTREE TOWERS CONDOMINIUM ASSOCIATION, INC.

By: [Signature] [SEAL]
President

Attest: [Signature] [SEAL]
Secretary

[CORPORATE SEAL]

Sworn to and subscribed to before me this 18th day of May, 1995.

[Signature]
Witness

Jana M. Lawrence
Notary Public



My Commission Expires December 11, 1995

[NOTARY SEAL]

