

**EXHIBIT "D"**

**AMENDED AND RESTATED BYLAWS  
OF  
CHESTNUT CREEK HOMEOWNERS ASSOCIATION, INC.**

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**Article I.**  
**General**

**Section 1. Applicability.** These Bylaws provide for the self-government of the Chestnut Creek Homeowners Association, Inc., in accordance with the Georgia Property Owners' Association Act ("Act"), the Articles of Incorporation filed with the Secretary of State of Georgia, and the Declaration of Protective Covenants and Permanent Membership, recorded in the Cobb County, Georgia land records ("Declaration").

**Section 2. Name.** The name of the corporation is Chestnut Creek Homeowners Association, Inc. ("Association").

**Section 3. Definitions.** The terms used herein shall have their generally accepted meanings or the meanings specified in Paragraph 2 of the Declaration.

**Section 4. Membership.** The classes of membership are more fully set forth in the Declaration. As may be more fully provided below, a spouse or Domestic Partner of a Member may exercise the powers and privileges of the Member. If title to a Member Lot is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Member Lot. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the membership. Membership shall be appurtenant to the Member Lot and shall be transferred automatically by conveyance of that Member Lot and may be transferred only in connection with the transfer of title.

**Section 5. Entity Members.** If a Member is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director or other designated agent of such corporation, manager or member of such limited liability company, partner of such partnership, beneficiary or other designated agent of such trust, or representative of such other legal entity shall be eligible to represent such entity in the affairs of the Association, including, without limitation, serving on the Board of Directors of the Association. Such person's relationship with the Association, and any office or directorship held, shall terminate automatically upon the termination of such person's relationship with the entity that is the Member. Termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

**Section 6. Voting.** When more than one (1) Person holds an ownership interest in any such Member Lot, the vote for such Member Lot shall be exercised as those co-owners determine among themselves. In no event shall more than one (1) vote be cast with respect to any Member Lot. If only one (1) co-owner attempts to cast the vote for a Member Lot or if only a Member's spouse or Domestic Partner attempts to cast the vote for a Member Lot, it shall be conclusively presumed that such co-owner, spouse or Domestic Partner is authorized on behalf of all co-owners or the Member (as the case may be) to cast the vote for such Member Lot. In the event of disagreement between or among co-owners or between a Member and his/her spouse or Domestic Partner and an attempt by two (2) or more of them to cast such vote(s), such Persons shall not be recognized and such vote(s) shall not be counted.

(a) Recreation Members shall be entitled to one (1) equal vote for each Member Lot owned on all matters before the Association.

(b) Civic Members shall be entitled to one (1) equal vote for each Member Lot owned; provided, however, Civic Members shall not be entitled to vote on any matter except: (1) amendments to the Declaration; (2) amendments to the Bylaws; and (3) the election of members to the Board of Directors.

(c) Associate and Outside Users are not Members and do not have any right to vote on any matters whatsoever.

**Section 7. Proxy.** No Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, or to act as a proxy for any other Member if that Member is shown on the books or

management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Member has had its voting rights suspended for any reason. If a Member's voting rights have been suspended, that Member shall not be counted as an eligible vote for purposes of establishing a majority or a quorum or for purposes of amending these Bylaws or the Declaration.

**Section 8. Purpose.** The Association shall have the responsibility of administering the Property, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Property and performing all of the other acts that may be required to be performed by the Association pursuant to the Act, the Declaration or the Georgia Nonprofit Corporation Code. Except as to those matters which the Declaration, the Act or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below, and the Board shall have every right, power and privilege authorized or implied herein and under Georgia law to effectuate such responsibilities.

### **Section 9. Electronic Records and Signatures.**

(a) **Records.** Whenever the Association's Legal Instruments require that a document, record or instrument be "written" or "in writing," the requirement is deemed satisfied by an Electronic Record if the Board of Directors has affirmatively published regulations permitting an electronic record or document as a substitute for a written item.

(b) **Signatures.** Whenever these Bylaws require a signature on a document, record or instrument, an Electronic Signature satisfies that requirement only if: (1) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (2) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) **Verification and Liability for Falsification.** The Board may require reasonable verification of any Electronic Signature, document, record or instrument. Absent or pending verification, the Board may refuse to accept any Electronic Signature or Electronic Record that, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any Association Member or any other Person for accepting or acting in reliance upon an Electronic Signature or Electronic Record that the Board reasonably believes to be authentic, or rejecting any such item which the Board reasonably believes not to be authentic. Any Member or Person who negligently, recklessly or intentionally submits any falsified Electronic Record or unauthorized Electronic Signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees actually incurred and expenses incurred as a result of such acts.

## **Article II.**

### **Meetings of Members**

**Section 1. Annual Meetings.** The regular annual meeting of the Members shall be held in the fall of each year with the date, hour, and place to be set by the Board of Directors. No annual meeting of the Association shall be set on a legal holiday.

**Section 2. Special Meetings.** Special meetings of the Members may be called for any purpose at any time by the President, the Secretary, or by request of any two (2) or more Board members, or upon written petition of twenty-five (25%) percent of the Members. Any such written petition by the Members must identify the special meeting purpose on each page of the petition and must be for a purpose on which the Members are authorized to act under these Bylaws or the Declaration. The petition, with original signatures, must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of Members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for all lawful purposes stated in the petition at a date, time and location selected by the President and the Secretary shall send notice of such meeting in accordance with these Bylaws within thirty (30) days of the date of delivery of the petition to the Secretary.

**Section 3. Notice of Meetings** The Secretary shall give notice of each annual or special meeting of the Association to the record Owner(s) of each Lot or to the Lot address at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the time and place of the meeting, and for any special meeting, the purpose of the meeting. Giving notice as provided in these Bylaws shall be considered proper service of notice.

**Section 4. 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, 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 represented by proxy, shall be deemed waiver by such Member of notice of the time, date, and place thereof unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**Section 5. Quorum.** Except as may be provided elsewhere, the presence, in person or by proxy at the beginning of the meeting, of Members (or their spouses or Domestic Partners) entitled to cast seven and a half percent (7.5%) of the eligible votes of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Members whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

**Section 6. Adjournment** Any meeting of the Members may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Members holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could have been transacted properly at the original session of the meeting with a quorum present may be transacted at a reconvened session with a quorum present, and no additional notice of such reconvened session shall be required.

**Section 7. Proxy.** Any Member (or his/her spouse or Domestic Partner) entitled to vote may do so by written proxy duly executed by the Member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Association in the same manner as any other notice may be given to the Association. Proxies may be revoked only by written notice delivered to the Association, except that the presence in person by the proxy giver at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy. If more than one proxy is given to the Association for the same vote and they are not consistent regarding the appointed proxy holder, all such proxies shall be invalid and none of them shall count toward the quorum or any vote. Members whose voting rights have been suspended hereunder may not act as proxy for any other Member.

**Section 8. Action Taken Without a Meeting.** In the Board's discretion, any action that may be taken by the Association Members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written ballot or written consent form to every Member entitled to vote on the matter. Such ballots and consent forms shall be given to the relevant Members and shall be returned to the Association in accordance with the notice provisions set forth in these Bylaws.

(a) **Written Ballot.** A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Except for amendments to recorded Legal Instruments that become effective upon recording, and except for actions that specifically set a later effective date, approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the 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.

All solicitations for votes by written ballot shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which such ballot must be received by the Board in order to be counted. A ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) **Written Consent.** Approval by written consent shall be valid only when the number of written consents received equals or exceeds the requisite majority of the voting power for such action. Executed/Signed consents shall be included in the minutes or filed with the Association's records.

(c) **Notice to Members of Approval and Effective Date of Such Action.** If an action of the Members is approved by written ballot or written consent hereunder, the Board shall issue notice of such approval to all Members who did not return a ballot or consent (as the case may be). Membership approval shall be effective ten (10) days after such notice is issued; provided, however, if the ballot or consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

**Section 9. Order of Business.** The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all membership meetings. The Board of Directors may establish rules of conduct and the order of business for all membership meetings. When not in conflict with the Declaration, these Bylaws, the Articles of Incorporation or meeting procedures adopted by the Board of Directors, Robert's Rules of Order (latest edition) shall govern all membership meetings. The Board may order the removal of anyone attending a membership meeting who, in the opinion of the Board, disrupts the conduct of the business at such meeting.

### **Article III.** **Board of Directors**

#### **A. Composition and Selection.**

**Section 1. Composition and Eligibility.** A Board of Directors shall govern the affairs of the Association. The Board shall be composed of three (3) through seven (7) Members, the exact number to be determined by resolution of the Board. The directors shall be Members or spouses or Domestic Partners of such Members provided, however, no Member and his or her spouse or Domestic Partner may serve on the Board at the same time, and no co-owners of a Member Lot may serve on the Board at the same time. No Member shall be eligible to be elected to serve on the Board of Directors if, at the time of such election, he or she is: (a) shown on the books and records of the Association to be more than thirty (30) days delinquent in the payment of any assessment or charge by the Association; or (b) suspended from voting as an Association Member.

**Section 2. Term of Office.** Those directors serving on the Effective Date of these Bylaws shall remain in office until the terms for which they were elected expire. Successor directors shall be elected by the vote of those Members present or represented by proxy, at the annual or other meeting of the membership of the Association, a quorum being present. Those persons receiving the most votes shall be elected to the number of positions to be filled. All successor directors shall be elected for 1-year terms and shall hold office until their respective successors are elected.

**Section 3. Removal of Directors.** At any duly called Association meeting, for which the notice given included notice of a vote to remove directors, any one or more Board members may be removed with or without cause by a majority of the Association Members, and a successor may then and there be elected to fill the vacancy created. Any director whose removal has been proposed by the Association membership shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting. For the purpose of this Section, no Member may vote more than his or her own vote and the vote of four (4) proxies; however, the Association or the board members may vote any number of proxies.

Any Director may be removed by the vote of the other Association Directors if: (1) he or she is absent from 3 or more meetings of the Board of Directors in any fiscal year; (2) his or her Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge; (3) the voting rights for his or her Lot have been suspended; (4) he or she was appointed by the other Directors to fill a vacancy; or (5) he or she files any legal action, counterclaim or administrative action against the Association, any Director or Officer, in his or her capacity as such, or the Association's managing agent.

**Section 4. Vacancies.** Vacancies in the Board caused by any reason, except the removal of a director by vote of the membership, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any Board meeting. The successor so selected shall hold office for the remainder of the term of the director being replaced.

**Section 5. Compensation.** Directors shall not be compensated for services performed as directors unless authorized by a majority vote of the Members. Directors and committee- members may be reimbursed for the expenses incurred in carrying out their duties as directors and committee-members upon Board approval of such expenses. Directors and committee-members also may be given nominal gifts or tokens of appreciation by the Association for recognition of services performed not to exceed a value of \$100.00 per calendar year upon Board approval.

**Section 6. Director Conflicts of Interest.** Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a majority of the directors who are at a Board meeting at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at the meeting at which the proposed contract is discussed, but must leave the room during the discussion on such matter.

**Section 7. Nomination.** Nomination for election to the Board shall be made from the floor at the meeting, or, if elections are conducted by ballot or electronically in lieu of a meeting, by the method and date proscribed by the Board. The Board also may appoint a nominating committee to make nominations prior to the meeting. Each candidate shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election. No Member shall be nominated for election to the Board, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment or charge owed to the Association or if such Member's vote has been suspended for any reason whatsoever.

**Section 8. Elections.** Directors shall be elected at the annual membership meeting or by mail-in or electronic ballot in lieu of such meeting. If elections are held at the annual membership meeting, voting shall be by written ballot, unless dispensed with by unanimous consent or unless a slate of candidates is unopposed and is accepted by acclamation. The nominees receiving the most votes shall fill the directorships for which elections are held. There shall be no cumulative voting.

**B. Meetings.**

**Section 1. Regular Meetings.** Regular Board meetings shall be held at least every three (3) months at such time and place as determined by the Board. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership.

**Section 2. Special Meetings.** Special Board meetings may be called by the President on two (2) days' notice to each director (given in accordance with the notice provisions set forth in these Bylaws), which notice shall state the time, place and purpose of the meeting. Special Board meetings shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice at the request of at least two (2) directors.

**Section 3. Waiver of Notice.** Any director may, at any time, waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting also shall constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

**Section 4. Conduct of Meetings.** The President shall preside over all Board meetings, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. The presence of directors entitled to cast one-half of the votes of the Board shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other. Directors may not participate in meetings by proxy.

**Section 5. Open Meetings.** Board meetings need not be open to all Members. If the Board permits Members to attend Board meetings, then Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the 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. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

**Section 6. Action Without a Meeting.** Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a majority of the directors consent in writing to such action. Such written consents must describe the action taken, be signed by no fewer than a majority of the directors, and be filed with the Board minutes.

**C. Powers and Duties.**

**Section 1. Powers and Duties.** The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Property and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the Members. In addition to the duties imposed by these Bylaws, the Board of Directors shall have the power to do the following (by way of explanation and not limitation):

(a) control, manage, operate, maintain, repair, replace, and improve all portions of the Common Property as defined in the Declaration (which shall include determining the terms of use and the guidelines for Associate and Outside Users);

(b) grant and accept permits, licenses, utility easements, leases, and other easements;

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

(d) make, delete and amend reasonable rules and regulations governing the use of the Common Property;

(e) enforce by legal means the provisions of the Declaration, these Bylaws and the rules and regulations as provided in the Declaration and the Act;

- (f) bring or defend any actions or proceedings which may be instituted on behalf of or against the Members concerning the Association or the Common Property;
- (g) prepare and adopt an annual budget and establish the contribution from each category of Members and from the Associate Users and Outside Users to the Common Expenses;
- (h) establish the means and methods of collecting assessments as provided in the Declaration;
- (i) deposit Association funds in a financial depository or institution that the Board of Directors shall approve, or otherwise invest the proceeds in accordance with any limitations set forth in O.C.G.A. Section 14-3-302, and use such funds to administer the Association;
- (j) designate the signatories of all Association bank and other financial accounts;
- (k) obtain and carry insurance against casualties and liabilities as provided in the Declaration and pay the premium cost thereof;
- (l) make or contract for the making of repairs, additions and improvements to, or alterations of, the Common Property after damage or destruction by fire or other casualty, in accordance with the other provisions of the Declaration and these Bylaws;
- (m) designate, hire, dismiss and contract with the personnel necessary to operate the Association and the personnel necessary to maintain, repair, replace and improve the Common Property and, where appropriate, compensate such personnel; and
- (n) purchase equipment, supplies and material to be used by Association personnel in the performance of their duties.

Provided, however, that notwithstanding anything to the contrary contained herein, the Board shall make all reasonable efforts to obtain at least three competitive bids for any contracts, including those for capital improvement projects, which have a total value of two thousand (\$2,000.00) dollars or more.

**Section 2. Management Agent.** The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract with or without cause and without penalty, upon no more than thirty (30) days written notice, and for a term not in excess of one (1) year.

**Section 3. Borrowing.** The Board shall have the power to borrow money for the purpose of paying for emergency repairs and restoration of the Common Property and facilities without the approval of the Members of the Association. The Board also shall be authorized to borrow money for other purposes (including, but not limited to modifying, improving or adding amenities to the Property), but such borrowing must first be approved by Members holding a majority of the total eligible Association vote.

**Section 4. Liability and Indemnification of Directors, Officers and Committee Members.** The Association shall indemnify every Director, officer and committee member against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such Director, officer or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been a Director, officer, or committee member, whether or not such person is a Director, officer or committee member at the time such expenses are incurred subject to the limitations below.

The Directors, officers, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such Director, officer, or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Directors and officers shall have no personal liability with respect to any contract or other commitment made by

them, in good faith, on behalf of the Association (except to the extent that such Directors or officers may also be members of the Association), and the Association shall indemnify and forever hold each such Director and officer free and clear 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 Director, officer, or committee member, or former Director, officer, or committee member, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, directors' and officers' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

#### **D. Committees.**

**Section 1. Creation of Committees.** The Board may establish any committees as the Board, in its sole discretion, shall determine are necessary for the operations of the Association. All such committees shall have the powers and duties that the Board shall authorize.

**Section 2. Service on Committees.** Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the Board of Directors and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

### **Article IV. Officers**

**Section 1. Designation.** The principal officers of the Association shall be the President, the Vice President, the Secretary, the Treasurer and Board Member at Large. The President, Vice President, Secretary and Board Member at Large shall be elected by and from the Board. The Treasurer shall be elected by the Board, but need not be a Board member. The Board may appoint one or more Assistant Treasurers, Assistant Secretaries, and such other subordinate officers as in its judgment may be necessary. Any assistant or subordinate officers shall not be required to be Board members. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one (1) office.

**Section 2. Election of Officers.** The Association officers shall be elected annually by the Board at the first Board meeting following each annual meeting of the Members and shall hold office at the Board's pleasure until a successor is elected.

**Section 3. Removal of Officers.** Upon the affirmative vote of a majority of the Board members, any officer may be removed, either with or without cause, and a successor may be elected.

**Section 4. Vacancies.** A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

**Section 5. President.** The President shall be the chief executive officer of the Association and shall establish the agenda for and preside at all Association and Board meetings. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the Members as he or she may, in his or her discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 6. Vice President.** The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting. The Vice President shall be the reporting officer for all committees. All committee chairs shall report to the Vice-President.

**Section 7. Secretary.** The Secretary shall keep the minutes of all Association and Board meetings and shall have charge of such books and papers as the Board may direct, and shall, perform all duties incident to the office of the secretary of a corporation organized under Georgia law.

**Section 8. Treasurer.** The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may be designated by the Board. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

**Section 9. Board Member at Large.** The Board Member at Large has no official responsibilities as an officer, but serves as the fifth voting member of the Board of Directors. The Board Member at Large is a member of the Board of Directors, and is elected to the position of Board Member at Large by the Board as provided in Section 2 above.

**Section 10. Other Officers.** Other offices may be created by the Board, with such titles and duties as defined by the Board.

**Section 11. Agreements, Contracts, Deeds, Leases, Etc.** All agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association for more than Five Thousand Dollars (\$5,000.00) shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

## **Article V.** **Miscellaneous**

### **Section 1. Notices.**

(a) **Method of Giving Notice.** Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered via:

- (i) Personal delivery to the addressee; or
- (ii) United States mail, first class, postage prepaid; or
- (iii) Electronic mail; or
- (iv) Facsimile; or
- (v) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message

(b) **Addressee.** Notice given by one of the methods described in subparagraph (a) above shall be deemed to have been duly given:

- (i) If to a Lot Owner, at the address, electronic mail address or facsimile number which the Member has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Lot of such Member;
- (ii) If to an Occupant, at the address, electronic mail address or facsimile number which the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Lot occupied; or
- (iii) If to the Association, the Board or the managing agent, at the postal address, facsimile or electronic mail address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Members of any such change in address.

**Section 2. Severability.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

**Section 3. Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

**Section 4. Gender and Grammar.** The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

**Section 5. Fiscal Year.** The fiscal year of the Association may be set by Board resolution, or in absence thereof, shall be April 1 through March 31.

**Section 6. Financial Review.** A financial review of the Association's accounts shall be performed and a financial statement prepared annually in the manner provided by the Board. However, after receiving the Board's financial report at the annual meeting, the Members may, by a majority of the Association vote, require that the Association's accounts be audited as a Common Expense by an independent accountant. The financial statement and, if applicable, the audit shall be made available to the holder, insurer, or guarantor of any first mortgage on a Member Lot upon submission of a written request therefor.

**Section 7. Conflicts.** The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner of a Member Lot, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

**Section 8. Amendment.** Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, in which case such higher vote shall be necessary to amend, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Members holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote of the Association. Notice of a meeting, if any, at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment. No amendment shall become effective until the Association's President and Secretary have certified it and it is recorded in the Cobb County, Georgia land records. Any amendment duly certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Bylaws. Members whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the amendment requirement.

Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time. If legal action is not instituted to challenge the validity of an amendment within one (1) year of the recording of the amendment in the Cobb County, Georgia land records, then such amendment shall be presumed to be validly adopted.

**Section 9. Books and Records.** To the extent provided in O.C.G.A. Section 14-3-1602, and upon written request received at least five business days before the date requested for an inspection, all Association Owners and any Eligible Mortgage Holder shall be entitled to inspect the Association's books and records at a reasonable time and location specified by the Association. The Association can limit the length of time of each inspection, but such time limit shall not be less than two hours per inspection. The Association may impose a reasonable charge, covering the cost of materials and copies of any documents. To prevent abuse of an Owner's inspection rights, records previously inspected by an Owner are not subject to inspection again by the same Owner more than once per year.

Notwithstanding anything to the contrary, the Board may limit or preclude the inspection of confidential or privileged documents, including but not limited to, attorney/client privileged communication, executive session meeting minutes, and financial records or accounts of other Owners. Minutes of all meetings of the membership and the Board become official Association records when approved by the membership or the Board, as applicable.

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Chestnut Creek Homeowners Association, Inc., a Georgia corporation;

That the foregoing Bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors and the members of the Association on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CHESTNUT CREEK HOMEOWNERS  
ASSOCIATION, INC.**

\_\_\_\_\_(Seal)  
Secretary

[CORPORATE SEAL]