

EXHIBIT "D"

**AMENDED AND RESTATED BYLAWS
OF
BURNT MOUNTAIN ESTATES ASSOCIATION, INC.**

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AMENDED AND RESTATED BYLAWS
OF
BURNT MOUNTAIN ESTATES ASSOCIATION, INC.

Article I
Name, Membership, Applicability, and Definitions

Section 1. Name. The name of the corporation shall be Burnt Mountain Estates Association, Inc. (hereinafter referred to as the "Association").

Section 2. Membership. Every owner of a Lot subject to the Declaration of Covenants, Conditions, Restrictions, and Easements for Burnt Mountain Estates ("Declaration") shall be a member of the Association.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article II
Association: Meetings, Quorum, Voting, Proxies

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at another place convenient to the members as determined by the Board of Directors.

Section 2. Annual Meetings. An annual shall be held during the month of May or at some other time as designated by the Board.

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a Majority of the Board of Directors or upon a petition signed by Owners holding at least thirty-three percent (33%) of the Total Association Vote. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of record of each Lot a notice of each annual or special meeting of the Association stating the purpose of the special meeting, as well as the time and place where it is to be held. If an Owner wishes notice to be given at an address other than his or her Lot, he or she shall have designated by notice in writing to the Secretary such other address. The mailing of such notice or delivery of such notice to the residence located on the Lot in the manner provided in this Section shall be considered service of notice. Notices shall be mailed not less than fourteen (14) nor more than thirty (30) days before a special meeting and not less than sixty (60) days before an annual meeting. Notice of an annual meeting shall include the time and place set for the meeting, an agenda, and the proposed budget and proposed assessment for the coming year.

Section 5. 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 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. In addition, failure to provide the Secretary with a written notice of a mailing address shall serve as a waiver of notice of any meeting.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a Majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 7. Voting. The voting rights of the members shall be as set forth in the Declaration, and these voting rights are specifically incorporated in these Bylaws. Members shall be entitled to cast one vote for each Lot owned. When more than one person owns a Lot, the vote or votes for such Lot shall be exercised as they among themselves determine. In the event of a disagreement among such persons and an attempt by two or more of them to cast such vote or votes, such persons shall not be recognized and such vote or votes shall not be counted. The voting rights of any member shall be suspended during the period in which any assessment or portion thereof remains unpaid.

Section 8. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his or her Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. The presence, in person or by proxy, of Owners holding at least one-third (1/3) of the Total Association Vote shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 10. 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 consent form or written ballot to every member entitled to vote on the matter.

(a) Ballot. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. 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 a ballot must be received by the Board in order to be counted. A written 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 setting forth the actions taken is received and equals or exceeds the requisite majority of the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant, if required. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the 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.

Article III **Board of Directors: Number, Powers, Meetings**

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. The directors shall be the Owners or the spouses, cohabitants or members of such Owners; provided, however, no Owner and his or her spouse or cohabitant may serve on the Board at the same time, and no co-owners may serve on the Board at the same time. No persons shall be eligible to be elected to or continue to serve on the Board of Directors if they are shown on the books and records of the Association to be more than sixty (60) days delinquent in the payment of any assessment or charge by the Association.

Section 2. Number, Qualification, and Election of Directors. There shall be nine (9) members selected to serve as Directors for terms of three (3) years each. Six of the Directors shall be "Neighborhood Directors," one (1) from each of the Neighborhoods, as defined in the Declaration. The "Neighborhood Directors" shall each be elected by a majority of the votes cast by the members in each Neighborhood. Terms shall be staggered so that no more than two (2) terms end in the same year. Three (3) of the Directors shall be "At Large Directors" selected from the general membership. The "At Large Directors" terms shall be staggered so that no more than one (1) term ends in the same year. Candidates for all Directors shall be nominated as provided herein, and elected by vote of the membership at the annual meeting. Election shall be by a majority of all votes cast. In case of three (3) or more candidates running for a specific position and no candidate receiving a majority of the votes cast on the first balloting, there shall be an immediate run-off election between the two candidates who finished first and second after the first balloting. In any case where there is no member of a Neighborhood willing to accept a nomination as Director of that Neighborhood, and thereby no Director for that Neighborhood is selected at the annual Meeting, at any time until the next annual meeting, the Board of Directors may appoint a person from that Neighborhood to serve as a Director for the unfinished term of the Director that would have otherwise have been elected. If a Neighborhood Directorship goes unfilled for a year, the Nominating Committee will again attempt to nominate a candidate for that position for election at the next annual meeting, to fill the unfinished term for that position.

Directors in office upon the effective date of the Restated By-laws shall continue in office for the remainder of the term and successors shall be elected in accordance with the above.

Section 3. Nomination of Directors. Nomination for election to the Board shall be made by a Nominating Committee which shall be appointed by the Board of Directors at least one hundred twenty (120) days prior to the annual meeting to serve a term of one (1) year and shall consist of at least one (1) Board member and at least two (2) other members of the Association who are not Board members. The members of the Nominating Committee shall be announced at the annual meeting. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The committee shall notify the secretary, in writing, at least seventy-five (75) days before the annual meeting, of the names of the candidates it proposes, and the secretary shall mail a copy thereof to each member with the notification of the annual meeting. Nominations for election to the Board of Directors can also be made from the floor at the annual meeting, unless the election is conducted by ballot in accordance with Section 10(a) of these By-Laws. 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.

Section 4. Removal of Directors. At any regular or special meeting of the Association duly called, any one (1) or more of the Neighborhood Directors may be removed, with or without cause, by members holding a majority of the Total Association Vote in the Director's neighborhood to elect said director and a successor may then and there be elected by the members entitled to elect that director in order to fill the vacancy thus created. At-Large Directors may also be removed with or without cause by members holding a majority of the Total Association Vote and a successor may then and there be elected by the members to fill the vacancy created. A director whose removal has been proposed by the Owners shall be given at least ten (10) days notice of the calling of the meeting and its purpose and shall be given an opportunity to be heard at the meeting. Additionally, any director who has two (2) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than sixty (60) days may be removed by a majority vote of the directors at a meeting, a quorum being present. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and it may appoint a successor. Any director appointed by the Board shall serve for the remainder of the term of that director.

Section 5. Vacancies. Vacancies on the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each director so selected shall serve the unexpired portion of the term of his or her predecessor.

Section 6. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a majority of the Total Association Vote. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors.

Section 7. 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 meeting of the Board of Directors 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 any meeting at which the proposed contract is discussed but shall not be permitted to discuss the proposed contract.

B. Meetings.

Section 8. Organization Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days at the time and place determined by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of the regular schedule shall constitute sufficient notice of the meetings.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; (d) by facsimile; or (e) by telegram, charges prepaid. All notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, facsimile or telegraph company shall be given at least forty-eight (48) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if: (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed to have been given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time that the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Open Meetings. All meetings of the Board shall be open to all members, but members other than directors or officers may not participate in any discussion or deliberation unless expressly so authorized by the Board.

Section 14. Executive Session. 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. Executive Sessions shall consist of Board members and approved guests only.

Section 15. Action Without A Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by a majority of the directors.

Section 16. Telephonic Participation. One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those directors participating by telephone shall be deemed to be present at such meeting for quorum and other purposes. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

C. Powers and Duties.

Section 17. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, by way of explanation, and not limitation:

(a) preparing and adopting an annual budget in which there shall be established the contribution of each Owner to the Common Expenses and Neighborhood Expenses;

(b) making assessments to defray the Common Expenses and Neighborhood Expenses, if any, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments, if any, of such assessment;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, any covenants applicable to a Neighborhood, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost;

(j) paying the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

(k) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred; and

(l) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, condominiums, or other associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 18. Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize.

Section 19. Borrowing. The Board of Directors shall have the power to borrow money for any lawful purpose including, without limitation, repair or restoration of the Common Property and facilities, without the approval of the members of the Association. However, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, or the total amount of such borrowing exceeds or would exceed Ten Thousand and No/100 Dollars (\$10,000.00) outstanding debt at any one time.

Article IV **Officers**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board following each annual meeting of the members. All officers, except the Secretary/Treasurer, must be members of the Board. Election of officers shall be by a majority of all votes cast by the current Directors. In case of three (3) or more candidates running for a specific officer position and no candidate receiving a majority of the votes cast on the first balloting, there shall be an immediate run-off election between the two candidates who finished first and second after the first balloting. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term. The office of the President shall be rotated among

the members of the Board representing the Neighborhoods according to the schedule shown in Exhibit "E".

In the event a Neighborhood fails to elect a member of the Board and the next scheduled President is to be from that Neighborhood, then the rotation shall continue and the President shall be chosen in accordance with the above schedule for the next listed Neighborhood.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever, in its judgment, the removal will serve the best interests of the Association.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. 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.

Section 5. 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.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law.

Section 7. 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 from time to time be designated by the Board of Directors.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article V **Committees**

Section 1. Architectural Control Committee. The Board shall establish an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Community as provided in the Declaration.

Section 2. Neighborhood Committees. The Owners in a designated neighborhood shall/may elect a "Neighborhood Committee" to administer affairs with that neighborhood in accordance with such policies and procedures as may be adopted by a vote of a majority of the Owners in a designated neighborhood.

Section 3. Nominating Committee. The Board shall appoint a nominating committee in accordance with Article III, Section 3.

Section 4. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 5. 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 President 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 VI **Miscellaneous**

Section 1. Fiscal Year. The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 2. Parliamentary Rules. Roberts Rules of Order (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, these Bylaws, or a ruling made by the Person presiding over the proceeding.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

Section 4. Amendment. These Bylaws may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least a majority of the Total Association Vote. Amendments to these Bylaws shall become effective upon recordation, unless a later effective date is specified in the amendment.

[CERTIFICATION ON NEXT PAGE]

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Burnt Mountain Estates Association, Inc., a Georgia non-profit 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 29th day of September, 2003.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 29th day of September, 2003

BURNT MOUNTAIN ESTATES ASSOCIATION, INC.

S/ Francis G. Clark, Jr.
Secretary

[CORPORATE SEAL]

