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**Cross Reference:**  
**Deed Book 276-A, Page 454**  
**Chatham County, Georgia**  
**Records**

**AMENDED AND RESTATED BY-LAWS OF**  
**THE ENCLAVE AT BERWICK PLANTATION HOMEOWNERS ASSOCIATION, INC.**



# *The Enclave*

**THE BY-LAWS OF THE ENCLAVE AT BERWICK PLANTATION  
(Third Amendment which Replaces all Previous Versions and Amendments)**

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Certification

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After Recording Return To:

Stephen Guarino  
President

The  
**THIRD AMENDMENT TO THE BY-LAWS FOR THE ENCLAVE AT  
BERWICK PLANTATION HOMEOWNERS' ASSOCIATION, INC.  
AND  
THESE AMENDMENTS SUPERSEDE ALL PREVIOUS BY-LAWS**

**This Third Amendment to the By-laws of The Enclave at Berwick Plantation Homeowners Association, Inc. is made on the date hereinafter set forth below.**

**WITNESSETH:**

**WHEREAS**, Genesis Real Estate Group, LLC recorded that certain Declaration of Covenants, Conditions and restrictions for the Enclave at Berwick Plantation dated September 15, 2004, and recorded at Deed Book 276-A, Page 454, Chatham County, Georgia land records (hereafter referred to as the "Declaration");

**WHEREAS**, Dream Finders Homes, LLC (hereafter referred to as the "Declarant") is the Declarant pursuant to that certain Quitclaim Transfer and Assignment of Declarant Rights recorded on October 8, 2019, in Deed Book 1740, Page 338 of the Chatham County, Georgia land records;

**WHEREAS**, The Enclave at Berwick Plantation Homeowners Association, Inc. (hereafter referred to as the "Association") is the homeowners association identified in the Declaration;

**WHEREAS**, the By-Laws of the Enclave at Berwick Planation Homeowners Association, Inc. (hereafter referred to as the "By-Laws") are the By-Laws of the Association;

**WHEREAS**, as of the date of this Amendment, consent of the Class “B” Member is not necessary because the Class “B” Membership has terminated;

**WHEREAS**, this Amendment has been approved by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of the total Class “A” vote in the Association;

**NOWHEREFORE**, the By-Laws are hereby amended and replaced in their entirety as follows:

## **Article 1**

### **Name Principal Office and Definitions**

#### **1.1 Name**

The Name of the corporation is The Enclave at Berwick Plantation Homeowners Association, Inc. (the “Association”).

#### **1.2 Principal Office**

The principal office of the Association shall be located in Chatham County, Georgia. The Association may have such other offices, either within or outside the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

#### **1.3 Definitions**

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Recorded Declaration of Covenants, Conditions and Restrictions for THE ENCLAVE AT BERWICK PLANTATION as it may be amended (the “Declaration”), unless the context indicates otherwise.

**Article II**  
**Membership: Meetings, Quorum, Voting, Proxies**

**2.1    Membership**

The Association shall have one class of membership, Class “A”, as more fully set forth in the Declaration. The Class “B” Membership is terminated as of December 31, 2023.

**2.2    Place of Meetings**

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

**2.3    Annual Meetings**

The first meeting of the Association, whether a regular or special meeting, shall be held within one year after the date of incorporation of the Association. Meetings shall be of the Members unless otherwise required by Georgia law or specified by the Board. Subsequent regular annual meetings shall be set by the Board so as to occur during the fourth quarter of the Association’s fiscal year on a date and at a time by the Board.

**2.4    Special Meetings**

The President may call a special meeting. In addition, it shall be the duty of the President to call a special meeting, if so directed by resolution of the Board or upon a petition signed by Members representing at least 10% of the total Class “A” votes of the Association.

**2.5    Notice of Meetings**

Written, printed or electronic mail notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail or electronic mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 60 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.



In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose, or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice unless a majority of those in attendance agree by recorded vote to conduct further Association business at the special meeting.

If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Members at his or her address as it appears on the Association's records, with postage prepaid. If sent by electronic mail to the electronic mail address on file with the Association, to the Members at his or her address, the notice shall be deemed to be delivered when sent and the date and time shall be recorded in the Association's meeting minutes.

#### 2.6 Waiver of Notice

Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member 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 also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

#### 2.7 Adjournment of Meetings

If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a date not less than 5 nor more than 30 days from the date of the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for reconvening after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner presented for regular meetings.

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, provided that any action taken is approved by at least a majority of the votes of the Member remaining at the meeting.

2.8 Voting

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provision are specifically incorporated by this reference.

2.9 Proxies

On any matter as to which a Member is entitled personally to cast the vote for his or her Lot, such vote may be cast in person or by proxy, subject to the limitations of Georgia law relating to the use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws.

Every proxy shall be in writing specifying the Lot for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be recoverable and shall automatically cease upon: (a) conveyance of any Lot for which it was given, (b) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or (c) 11 months for the date of the proxy, unless a shorter period is specified in the proxy.

2.10 Majority

As used in these By-Laws, the term “majority” shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11 Quorum

Except as otherwise provided in these By-Laws or in the Declaration, the presence, either in person or by proxy, of Members representing 10% of the total Class “A” votes in the Association shall constitute a quorum at all Association meetings.

2.12 Conduct of Meetings

The President shall preside over all meetings of the Association and the Board of Directors, and the Secretary shall keep the minutes of the meetings of the Association and all work sessions undertaken by the Board of Directors, and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13 Action Without Meeting

Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all members entitled to vote thereon were present. Such consent shall be signed within 60 days after receipt of earliest dated consent, dated, and delivered to the Association. Such consent shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within 10 days of receiving authorization for any action by written consent, the Secretary shall give written notice to all members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

**Article III**  
**Board of Directors, Selection, Meetings, Powers,**  
**Composition and Selection**

**3.1 Governing Body: Composition**

The affairs of the Association shall be governed by a Board of Directors each of whom shall have one vote. All directors shall be at least 18 years of age and current on all assessments and charges owed to the Association, and all directors shall be either Members, or spouses or domestic partners of Members, to be eligible to hold a position on the Board of Directors. Two or more Members or spouses or domestic partners may not represent the same Lot at the same time. If a Member is not a natural person, any officer, director, partner, Attorney at Law or trust officer of such Member shall be eligible to serve as Director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one representative on the Board at a time.

**3.2 Number of Directors**

After the termination of the Class “B” Membership on December 31, 2023, the initial Board of Directors after said termination date shall consist of three (3) directors, but at each annual meeting thereafter, the Board of Directors shall consist of five (5) to seven (7) directors, as provided in Sections 3.3 and 3.5 below.

**3.3 Terms of Office for Directors and/or Corporate**

At the first annual meeting after termination of the Class “B” Membership, the elected positions shall be as set forth herein: The voting members shall elect 5 Directors. Three (3) Directors shall hold a two (2) year term and Two (2) directors shall hold a One (1) year term. For continuity of Board Directors, each subsequent election, all Directors terms shall be two (2) year terms. Within ten (10) days after the election, the newly elected Directors will hold an organizational meeting and determine amongst themselves the Five (5) offices as listed below: President, 1<sup>st</sup> Vice President, 2<sup>nd</sup> Vice President, Treasurer and Secretary.

To the extent the Board determines the number of directorships shall be increased to seven (7), the two additional Directors, once the need is determined within the sole discretion of the Board, and the persons are

identified as an eligible candidate, they shall be placed on the ballot like all other Directors seeking election at the next annual election. One such director shall hold a term of one year and the second director shall hold a term of two years, and thereafter the terms shall be two (2) years.

### 3.4 Nomination and Election Procedures

- (a) Nominations and Declarations of Candidacy. Prior to each election of Directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every eligible person may file as a candidate for any director position to be filled by Members. Nominations may also be permitted from the floor.

Nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairperson, who shall be a Member of the Board, and three or more Members. Members of the Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting to serve a term of one year and complete their term of office upon the successful completion of the annual election. The appointment of Nominating Committee members shall be set forth in the Notice of the Election.

The Nominating Committee may make as many nominations for election as the Directors that are up for election.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members to solicit votes. Candidates may exercise any and all lawful means, including but not limited by, campaign literature, neighborhood canvassing, events, etc., but shall comply with all provisions of the Declaration in so doing.

- (b) Election Procedures  
Each Member may cast all votes assigned to the Lots the Member represents for each position to be filled from the slate of candidates on which such member is entitled to vote. There shall be no cumulative voting. The number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected.

### 3.5 Election and Term of Office

Except as these By-Laws may otherwise specifically provide, election of Directors shall take place at the Association's annual meeting.

Notwithstanding any other provisions of these By-Laws.

- (a) After termination of the Class "B" Membership, which is December 31, 2023, the President shall call for an election by which the Members shall be entitled to elect five Directors at the annual meeting upcoming. Thereafter all elections shall be as set forth in these By-Laws in Section 3.3
- (b) No later than the first Annual meeting after the termination of the Class "B" Membership ending on December 31, 2023, the Board shall be increased to five Directors and an election shall be held. Five Directors shall be elected for the terms set forth in Section 3.3.
- (c) Upon expiration of the term of office of each Director elected by the Members, Members entitled to elect such Director shall be entitled to elect a successor to serve a term as set forth in Section 3.3. Directors elected by the Members shall hold office from January 1<sup>st</sup> after their election and until December 31<sup>st</sup> of the year their term expires.

### 3.6 Director Training

All Directors shall complete, prior to commencing service on the Board and on an ongoing basis thereafter, such training requirements as the Board may establish.

### 3.7 Removal of Directors and Vacancies

Any Director elected by the Members may be removed through a special meeting by recall election, with or without cause, by the vote of Members holding a majority of the votes present in person or by proxy at the removal meeting. Any Director whose removal is sought shall be given twenty days' notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by a majority of the Members as stated above and present at the meeting either in person or through a properly executed proxy vote, to serve the remainder of the term.

Any Director elected by the Members who has three consecutive absences from Board meetings, or who is more than 30 days delinquent (or is the

representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, the Board may appoint a successor to fill the vacancy for the remainder of the term. Votes may be in person or through a written and recorded consent of the Board meeting minutes.

In the event of the death, disability, or resignation of a Board Member, the Board may declare a vacancy and appoint a successor to fill the vacancy for the remainder of the term.

Any directors previously appointed by the Board may be removed by the Board, with or without cause, and successors appointed by the Board for the remainder of the term.

3.8 Organizational Meetings

The first meeting of the Board following each annual meeting of the Members shall be held within 10 days thereafter at such time and place as the Board shall fix.

3.9 Regular Meetings

Regular meetings of the Board may be held at such time and place as a majority of the Directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.10 Special Meetings

Special meetings of the Board shall be held when called by written notice signed by the President, First Vice President or Second Vice President or by any two Directors.

3.11 Notice: Waiver of Notice

- (a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each Director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; (iv) facsimile, computer, fiber optics,

or other communication device, with confirmation of transmission; or (v) by electronic mail with confirmation of transmission.

All such notices shall be given at the Director's telephone number, facsimile number, electronic mail address, or sent to the Director's address as shown in the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the date set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

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

### 3.12 Quorum of Board

At all Board meetings, 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, unless otherwise specifically provided in these By-Laws or the Declarations. 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 Board meeting cannot be held because a quorum is not present, a majority of the Directors present at such meeting may adjourn the meeting to a date not less than 5 nor more than 30 days from the date of the original meeting. At the reconvened meeting, if those in attendance and present, any business which might have been transacted at the meeting originally called may be transacted without further notice.



**3.13 Conduct of Board Meetings**

The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meeting.

**3.14 Open Meetings: Executive Session**

Except in an emergency, notice of Board meeting shall be posted at least 48 hours in advance of the meeting at a conspicuous place within the Properties which the Board establishes for the posting of notices relating to the Association. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment. Subject to the provisions of Section 3.11 (b), all Board meetings shall be open to all Members and, if required by law, all Owners; but attendees other than Directors may not participate in any discussion or deliberation unless a Director requests that they be granted permission to speak. In such case, the President or other Officer presiding over the meeting, may limit the time any such individual may speak.

Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than Directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personal matter, etc.

**3.15 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 majority of the directors consent in writing to such action. The written consents must describe the action taken. The written consents shall be filed with the minutes of the Board. The written consents may be by email or other electronic means; a copy of the contents shall be printed and filed with the minutes of the Board.

**3.16 Powers and Duties**

The Board shall have all the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents, and as provided by law.

The Board may do or cause to be done on behalf of the Association all acts and things except those which the Governing Documents or Georgia law require to be done and exercised exclusively by the Members or the membership, generally.

### 3.17 Duties

Duties of the Board shall include, without limitation:

- (a) Preparing (or contracting for or delegating the preparations of) and adopting, in accordance with the Declaration, an annual balanced budget and establish each Owner's share of the Common Expenses;
- (b) Levying and collecting such assessments from the Owners;
- (c) Preparing such budgets and keeping such records as may be required by any Recorded Covenant to Share Costs;
- (d) Providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;
- (e) Designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties.
- (f) Depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks;
- (g) Making and amending use restrictions and rules in accordance with the Declaration;
- (h) Opening bank accounts on behalf of the Association and designating the signatories required;

- (i) Making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declarations and these By-Laws;
- (j) Enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association's obligations in this regard shall be conditioned in the manner provided in the Declaration;
- (k) Obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (l) Paying the cost of all services rendered on behalf of the Association;
- (m) Keeping books with detailed accounts of the Association's receipts and expenditures;
- (n) Making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (o) Permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties.
- (p) Indemnifying a director, officer, or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Georgia law, the Articles of Incorporation or the Declaration; and
- (q) Performing the responsibilities of the Association pursuant to any Recorded Covenant to Share Costs.

(r) Reserve funds shall be deposited in the following “buckets”:

- 1) Roads
- 2) Community Pool
- 3) Drainage
- 4) Sports Courts
- 5) Clubhouse
- 6) General reserve

Spending from reserve accounts must meet the following criteria.

Buckets 1-5 may only be used for intended purposes as titled, unless a reserve study recommends otherwise. Any of the five “buckets’ may be enhanced with funds from “bucket’ 6, General Reserve. Spending from any existing Buckets or Buckets added in the future by the Board must be expressly written and approved by a majority vote of the Board by resolution and such resolution must be recorded with the corporate records or on an electronic platform such as the Enclave website or other electronic platform.

### 3.18 Compensation

Directors shall not receive any compensation from the Association for acting as a Director. Any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such director’s interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested Director.

### 3.19 Right of Class “B” Member to Disapprove Actions Repealed In its Entirety.

### 3.20 Management

The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize.

The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority.

The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, which might arise between Board meetings.

### 3.21 Accounts and Reports

The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) Accrual accounting, as defined by generally accepted accounting principles;
- (b) Accounting and controls should conform to generally accepted accounting principles;
- (c) Cash accounts of the Association shall not be commingled with any other accounts;
- (d) No remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association;
- (e) Any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and
- (f) An annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year.
- (g) Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor, or

insurer of any first Mortgage on a Lot, the Association shall provide an audited financial statement.

**3.22 Borrowing**

The Association shall have the power to borrow money for any legal purpose; provided the Board shall obtain Member approval in the same manner as provided in Section 8.3 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12 month period, exceeds or would exceed 10% of the Association's budgeted gross expenses for that fiscal year.

**3.23 Right to Contract**

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhoods and other owners or resident associations, within and outside the Properties. Any common management agreement shall require the consent of a majority of the Board.

**3.24 Enforcement**

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Declaration, the Board shall comply with the following procedures prior to imposition of sanctions:

- (a) Notice. The Board or its delegates shall serve the alleged violator with written notice describing (i) the nature of the alleged violations, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board or the Covenants Committee may, but shall not be obligated to,

suspend any proposed sanction if the violation is cured within the 10 day period. Such a suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

- (b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Covenants Committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper 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, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative 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.
- (c) Appeal  
Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the Association's manager, President, or Secretary within 10 days after the hearing date.
- (d) Additional Enforcement Rights  
Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provisions of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, following compliance with the dispute resolution procedures set forth in Article XIV of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred. Any entry onto the Lot for purposes of exercising this power of self-help shall not be deemed as trespass.

3.25 Rules of Conduct

The Board may require each Director, as a condition of service, to sign and comply with a set of ethical guidelines which govern the actions of the Board members and officers. Failure of a Director or Corporate Officer to sign such ethical guidelines shall be subject to removal as set forth in Section 3.7.

3.26 Board Standards

While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a Director from personal liability so long as the party claiming liability does not prove that the Director failed to: (i) serve in a manner the Director believes to be in the best interests of the Association and the Members; (ii) serves in good faith; or (iii) acts with such care as an ordinarily prudent person in a like position would use under similar circumstances.

In fulfilling its governing responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and non-discriminatory manner and shall adhere to the procedures established in the Governing Documents.

Operational standards of the Board, and any committee appointed by the Board, shall be the requirements set forth in the Governing Documents or the minimum standards which the Board and the Architectural Review Committee may establish. Such standard shall, in all cases, meet or exceed the standards set by the Board or Architectural Review Committee. Operational standards may evolve as the needs and demands of the Properties change.



## **Article IV**

### **Officers**

#### **4.1 Officers**

The officers of the Association shall be board members. The Officers shall be elected by the Board after each annual meeting, and there shall be a President, First Vice President, Second Vice President, Secretary, and Treasurer, and such other offices as provided herein.

In the event the Board determines the need for additional Directors to increase the Board to seven (7) Members, the two additional offices shall be Officers-at-Large and shall be elected as any other Officers.

#### **4.2 Removal and Vacancies**

The Board may remove any Officer whenever in its judgment, and sole discretion, the best interest of the Association will be served and may fill any vacancy in an office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

#### **4.3 Powers and Duties**

The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

#### **4.4 Resignation**

Any officer may resign at any time by giving written notice to the Board, 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, acceptance of such resignation shall not be necessary to make it effective.

4.5 Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.6 Compensation

**Repealed In Its Entirety**

**Article V**  
**Committees**

5.1 General

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods (subject to Section 5.4) as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2 Covenants Committee

In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.25 of these By-Laws.

5.3 Terms of Service

In order to maximize the participation of all Owners and residents within the Properties, service on all committees shall rotate on a regular, two year basis, unless otherwise determined by the Board in its sole discretion.

5.4 Limitation on Powers

The Board shall have the right to disapprove or veto any committee decision or action, notwithstanding any provision to the contrary, committees shall not have the authority to contractually bind the Association or to commit the Association financially.

## **Article VI**

### **Miscellaneous**

#### **6.1 Fiscal Year**

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

#### **6.2 Parliamentary Rules**

Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law or the Governing Documents.

#### **6.3 Conflicts**

If there are conflicts among the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

#### **6.4 Books and Records**

##### **(a) Inspection by Members and Mortgagee**

The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first mortgage on a Lot, any Member, or duly appointed representative of any of the foregoing at any reasonable time and for a purpose related to his or her interest in a Lot: The Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the Association's office or at such other place within the Properties as the Board shall designate.

##### **(b) Rules of Inspection**

The Board shall establish rules with respect to:

- (i) Notice to be given to the custodian of the records;
- (ii) Hours and days of the week when such inspection may be made; and
- (iii) Payment of the cost of reproducing documents requested.

(c) Inspection by Directors

Every Director shall have the absolute right at any reasonable time to inspect all books, records, documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the Association's expense.

6.5 Notices

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

- (a) If to a Member, or Member at the address 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;
- (b) If to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or
- (c) If to any committee, at the principal address of the Association or to such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6 Amendments

(a) By Class "B" Member

**Class "B" Member is repealed in its entirety.**

(b) By Board Members Generally

These By-Laws may be amended only by the affirmative vote, written consent or any combination thereof, of Members representing 51% of the total Class "A" votes in the Association.


(c) Validity and Effective Date of Amendments

Amendments to these By-Laws shall become effective upon Recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its Recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

IN WITNESS WHEREOF, the President and Secretary of The Enclave at Berwick Plantation Homeowners Association, Inc. hereby certify that the agreement of the required majority to approve this Amended and Restated By-Laws of The Enclave at Berwick Plantation was lawfully obtained and that all notices required were properly given.

Dated this 10th day of October, 2024.

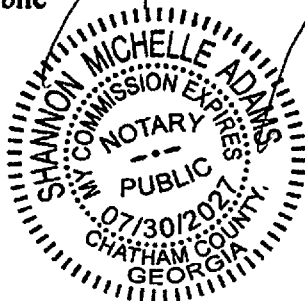
THE ENCLAVE AT BERWICK PLANTATION  
HOMEOWNERS ASSOCIATION, INC.

  
Signature of President  
Print Name: STEPHEN G. GUARINO

Sworn to and subscribed before me  
this 16 day of October, 2024.

Witness: Rai Alexander

  
Notary Public



Nancy C Muenzfeld

Signature of Secretary

Print Name:

Nancy C Muenzfeld

Sworn to and subscribed before me/  
this 16 day of October, 2024.

Witness:

Shannon Michelle Adams

Notary Public

