

**AMENDMENT AND RESTATEMENT TO THE BY-LAWS OF
PRESTWICK HOMEOWNERS ASSOCIATION, INC.**

This Amendment and Restatement to the By-Laws of Prestwick Homeowners Association, Inc. is made to be effective this 28th day of January , 2002.

WITNESSETH:

WHEREAS, Prestwick is a residential subdivision created pursuant to that certain Declaration of Covenants, Restrictions and Easements for Prestwick, recorded at Deed Book 9103, Page 1, *et seq.*, Fulton County, Georgia records (hereinafter the "Original Declaration");

WHEREAS, the Original Declaration, has been amended and restated as set forth in that certain Amended and Restated Declaration of Covenants, Restrictions and Easements for Prestwick, recorded at Deed Book 25925 Page 311, *et seq.*, on December 23, 1998, in the Fulton County Georgia records (hereinafter, the "Declaration" or "Covenants");

WHEREAS, the Association is the Prestwick Homeowners Association, Inc. as said term is used and defined in the Declaration;

WHEREAS, By-Laws of the Association have been adopted to govern the affairs of the Association;

WHEREAS, the Board of the Association has determined it to be in the best interest of the Association to amend and restate the By-Laws of the Association as set forth herein below;

WHEREAS, pursuant to Article VIII of the existing By-Laws, said By-Laws may be amended by the affirmative vote of a majority of the membership (Section 1) or a majority of all directors then holding office (Section 2);

WHEREAS, the following Amended and Restated By-Laws of the Association have been duly approved and adopted by a majority vote as provided above as evidenced by the Certification of Approval attached, hereto as Exhibit "A";

NOW, THEREFORE, the By-Laws of the Association, as previously amended, are hereby amended by striking the same in their entirety, and substituting therefore the following:

AMENDED AND RESTATED BY-LAWS OF
PRESTWICK HOMEOWNERS ASSOCIATION, INC.

Effective January 28, 2002

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**AMENDED AND RESTATED BY-LAWS OF
PRESTWICK HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I Definitions

Unless the context otherwise requires, the terms as used in the Amended and Restated By-Laws (hereinafter the "By-Laws") shall have the meanings assigned to such terms in the Covenants and the Laws of the Georgia Non Profit Corporation Code. Additionally, the following terms shall have the following meanings set forth below:

Section 1. "Act" shall mean and refer to the Georgia Property Owners Association Act, O.C.G.A 44-3-220 *et seq.* as the same may heretofore or hereafter be amended.

Section 2. "Articles of Incorporation" shall mean the Articles of Incorporation of the Association as the same now exists or as may hereafter be amended.

Section 3. "Association or PHA" shall mean Prestwick Homeowners Association, Inc., a Georgia non-profit membership corporation, and its successors and assigns.

Section 4. "Board" shall mean the Board of Directors of the Association, the members of which shall be elected from time to time as provided in the Covenants, the Articles of Incorporation, the By-Laws and the Georgia Non Profit Corporation Code. The Board shall be the governing body of the Association.

Section 5. "Declaration or Covenants" shall mean that certain Amended and Restated Declaration of Covenants, Restrictions and Easements for Prestwick, recorded in the Office of the Clerk of Superior Court of Fulton County, Georgia, recorded at Deed book 25925, Page311, *et. seq.*, on December 23, 1998 as such document may be amended from time to time.

Section 6. "Development" or "Prestwick" shall mean the Property and Lots subject to the Declaration and known as Prestwick and all improvements located or constructed thereon.

Section 7. "Eligible Votes" shall mean and refer to those votes available to be cast on the issue at hand. A vote, which is for any reason suspended at the time of the vote, is not available to be cast or counted.

Section 8. "Managing Agent" shall mean the person, company, or other legal entity that is hired by the Board to undertake the duties, responsibilities, and obligations of the management of the Association and Development. The Managing Agent may be employed and terminated by an affirmative majority vote of the Board of the Association, subject to any valid and enforceable contract as might exist.

Section 9. "Mortgage" shall mean any mortgage, deed to secure debt, deed of trust, or other instrument conveying a lien upon or security title to the Property or a Lot. Mortgagee shall mean the holder, beneficiary or grantee of a Mortgage. First Mortgage shall mean a first priority Mortgage. First Mortgagee shall mean the holder, beneficiary or grantee of a First Mortgage.

Section 10. "Owner, Lot Owner or Member" shall mean and refer collectively to the one or more Persons who are the record title owners of a Lot, but excluding those Persons having such an interest merely as security for the performance of an obligation.

Section 11. "Person" shall, mean and refer to a natural person, corporation, partnership, limited liability company, trust or other legal entity, or any combination thereof.

Section 12. "Rules and Regulations" shall mean the Rules and Regulations of the Association as may be adopted, amended, and repealed by the Board of the Association.

Section 13. "At Large Member" shall mean a non board member.

Section 14. "Common Grounds" shall mean the same as defined in the Covenants

Other terms shall have their natural meanings or the meanings given in the Covenants or the Georgia Non-Profit Corporation Code.

ARTICLE II General

Section 1. Applicability. The By-laws provide for the self-governance of the Association in accordance with the Articles of Incorporation and the Covenants and are applicable to the Prestwick Development. The By-Laws are binding on all present and future Owners, tenants, residents, or other persons occupying or using the Lots, improvements or common areas of the Development in any manner. The mere acquisition, rental or act of occupancy of any part of the Development, will signify that the By-Laws are accepted, ratified and will be complied with. The By-Laws are subject to the provisions of the Act, the Georgia Non-Profit Corporation Code, the Articles of Incorporation and the Covenants.

Section 2. Name. The name of the corporation is Prestwick Homeowners Association, Inc., (hereinafter sometimes referred to as the "Association" or "PHA").

Section 3. Purpose. The Association shall have the responsibility of administering the Development, establishing the means and methods of collecting the contributions to the common expenses, arranging for the management of the Development, and performing all other acts that may be required to be performed by the Association pursuant to the Covenants. Except as to those matters which either the Covenants, 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, as more particularly set forth herein.

Section 4. Membership. As provided in the Covenants, an Owner of a Lot shall automatically become a Member of the Association upon taking title to the Lot and shall remain a Member for the entire period of ownership. As may be more fully provided below, a spouse of a Member may exercise the powers and privileges of the Member. If title to a Lot is held by more than one 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 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 Owner's membership. Membership shall be appurtenant to the Lot to which it pertains and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title.

Section 5. Voting. The Association shall have one (1) class of voting membership, which shall consist of all Lot Owners. Each Lot shall be entitled to a vote, which may be cast in accordance with the terms herein and the terms of the Declaration. A vote may be cast by the Owner, the Owner's spouse, or by a lawful proxy as provided below. When a Lot is owned by more than one natural person, and more than one vote for such Lot is attempted to be cast, no vote shall be counted for such Lot unless the Owners of such Lot can mutually agree how the vote will be cast on the issue at hand. The votes of the Lot Owners shall be cast under such rules and procedures as may be prescribed in the Covenants or By-Laws.

Section 6. Suspension of Voting Rights. The voting rights of any Lot Owner who is shown on the books and records of the Association or management accounts to be more than thirty (30) days delinquent in the payment of ANY assessments due to PHA shall be suspended until such assessments have been paid in full. Such voting rights of a Lot Owner may also be suspended for the infraction of any provision of the Covenants, By-Laws, the Design Standards, or any Rule or Regulation established and published by the Board for the period of such infraction. Any Owner whose voting rights have been suspended shall not be counted for purposes of a quorum or be permitted to vote until the PHA has reinstated such voting rights.

ARTICLE III Meetings of Members

Section 1. Annual Meetings. The required annual meeting of the Members shall be held during the first thirty (30) days of each calendar year, on a day and at a time and place established by the Board. The minutes of the previous meeting will be read and approved unless members vote to dispense with the readings. At the annual meeting, reports of the activities of each committee, a finance report and budget projection of PHA shall be made to the Lot Owners. Minutes of the meeting will be taken. The approved minutes of the past annual meeting or a summarized report, including all action items will be sent out to the neighborhood within the first quarter of the calendar year.

Section 2. Special Meetings. Special meetings of the Members for any purpose may be called at any time by a majority of the Board, or upon written request of at least twenty-five percent (25%) of the Lot Owners. Any such petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in accordance with these By-Laws.

Section 3. Time and Place of Meetings. All meetings of the Members shall be at a time and place reasonably accessible and convenient to Members.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to each Lot Owner of record a notice of each annual or special meeting of the Association at least thirty (30) 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 reasonably accessible to all members including the purpose of such meeting. Notices shall be delivered personally or mailed by United States Mail, postage prepaid, to each Lot Owner at the address of his or her Lot or at such other address designated by such Lot Owner by notice in writing to PHA. The mailing or delivering of a notice of a meeting in the manner provided in this Section shall be considered service of notice.

Section 5. Waiver of Notice. Waiver of notice of a meeting by the Members shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed a waiver of all objections to lack of notice or defective notice of the meeting, unless the Owner at the beginning of the meeting objects to the holding of the meeting or transacting business at the meeting because of improper notice. An Owner's attendance at a meeting shall also be deemed waiver of all objections to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Owner objects to considering the matter when it is presented. The minutes of any membership meeting stating that notice of such meeting was properly given shall be prima facie evidence that such notice was so given.

Section 6. Quorum At all membership meetings, whether annual or special, a quorum shall be deemed present throughout any meeting if Lot Owners entitled to cast not less than one-half (1/2 means 59 of the 118 Lots, if all Lots are in good standing) of the votes of the Association membership are present in person or by written proxy at the beginning of such meeting. If no Quorum is present, no action requiring a vote can be taken. 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. Owners whose voting rights have been suspended pursuant to the Declaration or these By-Laws shall not be counted as eligible votes toward the quorum requirement.

Section 7. Adjournment. Any meeting of the Owners may be adjourned from time to time by the vote of a majority of the Lot Owners present in person or represented by proxy, regardless of whether a quorum is present. Any business that could be transacted properly at the original session of the meeting may be transacted at an adjourned session. A good faith effort should be made to give notice of the adjourned session in addition to the announcement at the meeting at which such adjournment is taken. The quorum required by Section 6 hereof shall be required at the adjourned session. Notwithstanding the above, when any membership meeting, either annual or special, is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

Section 8. Proxy. The vote pertaining to any Lot may, and in the case of any Lot Owner not a natural person or persons, shall, be cast pursuant to a proxy duly executed by or on behalf of the Lot Owner, or in cases where the Lot Owner is more than one person, by or on behalf of the joint Owners of the Lot. To be valid, a proxy must name an individual and be delivered to PHA prior to the opening of the meeting for which it is to be used and must be dated. No proxy shall be revocable except by written notice delivered to PHA. Any proxy shall be void if it purports to be revocable without notice as aforesaid. A proxy shall be automatically revoked if the Owner who has given such proxy is in attendance at the meeting. A proxy shall also

automatically be revoked upon the conveyance by a Lot Owner of his Lot and no proxy shall be valid after thirty (30) days from the meeting for which it was issued.

Section 9. Consents. Any action which may be taken by a vote of the Owners may also be taken by written consent, without a meeting, provided that such action is taken in accordance with the provisions of the Georgia Non-profit Corporation Code and section 10 below.

Section 10. Written Ballot. Any action to be taken at any annual, or special meeting of the Members may be taken without a meeting if approved by written ballot as provided for herein. PHA shall deliver a written ballot to each Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for, against, or abstain on each proposed action. Approval by written ballot of any action shall be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to consider such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a duly held meeting. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter other than the election of directors and specify the time by which a ballot must be received by PHA in order to be counted. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of Members filed in the permanent records of PHA. Ballots shall be available for inspection for three (3) months.

Section 11. Decision of Lot Owners. Unless otherwise expressly provided in the Covenants or the By-laws, and provided a quorum is present, the affirmative vote of Lot Owners in attendance in person or by proxy holding at least a majority of the votes of the Lot Owners represented at the meeting shall be the act of the Lot Owners. For purposes of the By-Laws, "majority" shall mean more than fifty (50%) percent. Notwithstanding the foregoing, any Action which, pursuant to the provisions of the Covenants or the By-laws requires the assent of a special percentage of the votes of the Lot Owners greater than a majority, shall not be considered the act of the Lot Owners unless such requisite percentage so prescribed by law or by the Covenants or the By-laws is obtained. In the event of any tie vote at any annual, special, or adjourned meeting, the President, or the Vice President, in the absence of the President, shall cast a separate additional vote to break the tie.

Section 12. Conduct of Business. The President shall preside over all meetings of the Lot Owners and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions duly adopted as well as all actions taken at such meetings. Minutes shall include the maker of the motion, who seconded it, and the vote. The meetings shall be conducted in accordance with Roberts Rules of Order.

ARTICLE IV

Board of Directors

Section 1. Composition. A Board consisting of seven (7) members shall govern the affairs of the Association. All directors shall be Owners of Lots or spouses of such Owners; provided, however, that no Owner and his or her spouse may serve on the Board at the same time. Any director who ceases to be a Lot Owner or the spouse of such former Lot Owner shall not be eligible to serve as a director. Any Lot Owner who is more than thirty (30) days delinquent in the payment of any assessments, fines or other charges due the Association shall not be eligible to serve as a director and if presently serving shall be removed by the Board with proper notice as defined in Article IV section 5.

Section 2. Nominations and Nominating Committee. The Board shall appoint a nominating committee that shall consist of a Board member and members at large. The committee shall seek and interview candidates to fill Board vacancies. The Nominees will be listed in the Notice of the Annual Meeting. The nominations shall be made at least thirty (30) days prior to the annual meeting. Nominations shall also be allowed from the floor at 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 of Directors, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment.

Section 3. Election of Directors. Election to the Board shall be by a majority vote of the members voting. The election shall be for a two-year term with three Directors elected to the Board on odd years and four Directors shall be elected to the Board on even years. Likewise, three Directors shall rotate off the Board on odd years and four Directors shall rotate off the Board on even years. Said election shall take place by the vote of the membership at the annual meeting or at a special meeting

called for this purpose. The vote must be by written ballot if there are nominations from the floor in addition to the recommendation of the nominating committee.

Section 4. Term of Office. The Board in office on the effective date of these Bylaws consists of seven (7) directors. Each of these incumbent directors shall serve for the remaining portion of their elected term. Directors shall hold office for the term for which he or she was elected and until his or her successors are elected and qualified, or until the person's early resignation, death, or removal. Directors fulfilling their term may not succeed themselves for one year, unless, the Nominating Committee, or nominations from the floor, fail to fill all vacated positions.

Section 5. Removal of Members of the Board. At any annual or special meeting of PHA duly called, any one or more of the members of the Board may be removed, with or without cause, by a majority of the total membership vote and a successor may then and there be elected to fill the vacancy thus created for the term so remaining. In addition to the foregoing, any director who misses three (3) consecutive meetings of the Board may be removed, without notice, by the affirmative vote of a majority of the Board then holding office. Any director whose removal has been proposed 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.

Section 6. Vacancies. Vacancies in the Board caused by any reason other than the removal of a director by vote of the Owners, shall be filled by a majority vote of the remaining directors, at any meeting of the Board. Each person so selected shall serve for any remaining portion of the vacating director's term. Vacancies in the Board caused by removal of a director by vote of the Members shall be filled by the Membership in accordance with Section 5 hereof.

Section 7. Compensation. Directors shall not be compensated for their services as directors. However, any director may be reimbursed by PHA for reasonable expenses, with documented receipts, incurred in the performance of the director's duties.

Section 8. Organizational Meetings. The first meeting of a newly elected Board shall be held immediately following the meeting at which they were elected. No notice shall be necessary for such initial meeting, providing a majority of the Board shall be present. Absent Directors shall not have a vote.

Section 9. Regular Meetings. Meetings of the Board shall be held monthly, at such time and place as shall be determined by the President or the majority of the Board. A Board may conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously communicate with each other during the meeting. A director participating in a meeting who is not physically present is deemed to be present in person at the meeting and may vote as such.

Section 10. Special Meetings. Special meetings of the Board may be called by the President, Vice President, Secretary, or Treasurer on three (3) days' notice to each director. Notice may be given by mail, by email, in person, by telephone, by facsimile transmission or other equivalent method, which notice shall state the time, date, place, and purpose of the meeting.

Section 11. Waiver of Notice. Waiver of notice of a meeting by a Member of the Board shall be deemed the equivalent of proper notice. Any Board Member may, in writing, waive notice of any meeting of the Board, either before or after such meeting. Attendance at a meeting by a Board Member, whether in person or by proxy, shall be deemed a waiver of all objections to lack of notice or defective notice of the meeting, unless the Board Member at the beginning of the meeting objects to the holding of the meeting or transacting business at the meeting because of improper notice. A Board Member's attendance at a meeting shall also be deemed waiver of all objections to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Board Member objects to considering the matter when it is presented. The recitation in the minutes of any Board meeting that notice of such meeting was properly given shall be prima facie evidence that such notice was so given.

Section 12. Quorum. A majority of the directors shall constitute a quorum for the transaction of all business. A decision of the Board shall be by a majority of those directors present at a duly called meeting at which a quorum is present and every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. If any Board meeting cannot be held because of the absence of a quorum, the only business that can be transacted is to take measures to obtain a quorum or to adjourn. The necessary quorum shall be required at the adjourned session. At any such adjourned meeting, any business, which might have been transacted at the meeting as originally called, may be transacted without further notice.

Section 13. Conduct of Meetings. Board meetings will be conducted under Roberts Rules Of Order. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book recording therein attendance, all resolutions duly adopted by the Board as well as all actions taken at such meetings.

Section 14. Action Without A Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if, prior to such action, one or more written consents describing the action taken are signed by no less than a majority of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board and such consent or consents shall be treated for all purposes as a vote at a meeting. Action taken under this provision is effective when the required number of directors signs the consent, unless the consent specifies a different effective date.

Section 15. Voting, Tie Votes. At all meetings of the Board, each director shall be entitled to cast one (1) vote. In the event of a tie vote by the Board, the matter must be tabled until there is a vote by a majority of the directors at a proper meeting.

Section 16. Powers and Duties. Section 16. 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 Declaration, the Articles of Incorporation, or these By-Laws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these By-Laws, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

- (A) Make improvements, and alterations to the Common Area, and make repairs to and restoration of Property after damage or destruction by fire or other casualty, or as a result of condemnation.
- (B) Enforce by any legal or equitable remedies available all obligations of the Lot Owners or any of them to PHA. Such enforcement power shall include, without limitation, the power to levy assessments and fines against Lot Owners, as provided in the By-laws and the Covenants.
- (C) Appoint auditors and accountants for the Association and make and file tax returns for and on behalf of the Association.
- (D) Enter into management agreements with third parties in order to facilitate efficient operation of the Development. It shall be the primary purpose of such management agreement or agreements to provide for the administration of the Development, the maintenance, repair, replacement and operation of the Common Area, and the receipt and disbursement of funds as may be authorized by the Board. The terms, including compensation, duties and services to be performed, of said management agreement, shall be as determined by the Board to be in the best interest of PHA and shall be subject in all respects to the By-Laws and the Covenants.
- (E) Take all other actions the Board deems necessary or proper for the sound management of the Development and fulfillment of the terms and provisions of the Declaration and the By-Laws.
- (F) Preparation and adoption of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (G) Manage the financial affairs of the Association.
- (H) The following actions (1 and 2) WILL require the specific authorization of seventy-five percent (75%) of the members, at a duly held meeting of the members:
 - (1) To borrow money for any purpose.
 - (2) To execute any deeds, notes, mortgages, bonds and any security instrument.

In the case of those powers and duties specified in the foregoing clauses (A), (B), (C), (D), (E), (F) and (G), the Board need exercise the same only to the extent, if any, it deems necessary or desirable or is required to do so by the vote of the Lot Owners. The Board shall not take any action or perform any duty imposed upon it requiring an expenditure of funds unless it shall have funds of the PHA sufficient to perform the action. In addition to the duties imposed by the By-Laws or by any resolution of PHA that may hereafter be adopted, the Board shall have the power to perform and be responsible for any and all functions necessary or proper for the administration and operation of the Development, unless otherwise particularly and specifically given to the membership.

Section 17. Standing Committees. Standing Committees, except the Executive Committee, shall be composed of a chairperson who will be a Board Member and preferably at least two members at large if possible; unless the Board, with

cause, names an at-large-member in special circumstances to act as Chairperson. The President and Treasurer shall not be the chairman of Standing committees (b) thru (e).

The Five (5) Standing Committees shall be:

(a). Executive Committee. The President, Vice President, and Treasurer shall make up the Executive Committee. They shall have authority to exercise all the powers of the Board that may be lawfully delegated and not inconsistent with the Articles of Incorporation, the By-Laws, or Covenants, at any time the Board is not in session. The President shall serve as chairperson and a majority of the whole Committee shall constitute a quorum; and the act of a majority of members present at a meeting at which a quorum is present shall be the act of the Committee.

(b). Architectural Control Committee. The Board will establish an Architectural Control Committee as further provided in Article III, Section 6, page 8 of the Covenants.

(c). Common Grounds Committee.

(d). Safety Committee.

(e). Social Committee.

(f). Additional Committees. The Board shall have the power and authority to create and establish other committees, as it deems necessary. The board shall establish the number of members required.

(g). Nominating Committee. The Nominating Committee shall be appointed as a non-standing committee as per article 4 section 2.

(h). Service on Committees. Volunteer service on Standing or Special committees, excluding the Executive Committee, shall be accomplished as follows

1. The Board of Directors shall name a Board member to head each committee except for special committees which may have a chairman that is not a Board member if the Board so approves.
2. The chairman of each committee shall recruit their own committee members subject to the approval of the Board.
3. Any Committee member serving at the pleasure of the Board may be removed from the committee at any time by the board with cause.
4. Removed members shall or shall not automatically be replaced by the Board at the Board's discretion.
5. Members resigning from service on a committee may or may not be replaced by the Board at the Board's discretion.
6. All functions, acts and services performed by any committee shall be at the pleasure of the board of Directors.

ARTICLE V

Officers

Section 1. Designation. The officers of PHA shall be the President, Vice President, the Secretary, and the Treasurer, all of whom shall be elected by and from the Board. Any and all rules and regulations contained in these By-Laws or the Declaration specifically relating to Board members shall also relate to officers. All such officers shall be Lot Owners (as said term is used and defined in Article I, Section 10 hereof) or spouses of Lot Owners. No person may hold more than one (1) office.

Section 2. Election of Officers. The officers of PHA shall be elected annually by the Board at the first meeting (organizational meeting) of the Board following the annual meeting of the Members and shall hold office for one year, or until their successor is elected, unless he shall resign or shall be removed, or is otherwise disqualified to serve.

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

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise may be filled by a majority vote of the Board. The officer elected to such vacancy shall serve for the remainder of the term of the officer they replace.

Section 5. President. The President shall be the Chief Executive officer of the Board, and shall preside at all meetings of PHA and of the Board. 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, and shall in general, manage, supervise, and control all of the business and affairs of PHA. Without limiting the foregoing, the President shall have the authority to sign, with the Secretary or any other proper officer of PHA authorized by the Board, any contracts, checks or other documents which the Board has authorized to be executed, except in cases where signing or execution thereof shall be expressly delegated by the Covenants or the By-Laws or the Board to some other officer or agent of PHA, or shall be required by law to be otherwise signed or executed.

Section 6. Vice President. The Vice President shall act in the President's absence, or in the event of his death or inability or refusal to act and shall have all powers, duties, and responsibilities provided for the President when so acting. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to act in the place of the President on an interim basis.

Section 7. Treasurer. The Treasurer shall have the responsibility, together with any management agent retained by PHA, for PHA's funds and securities and shall be responsible, together with such agent, for keeping full, accurate and separate financial records and books of each account showing all receipts and disbursements, for all special assessments, contingent surplus and general accounts; for preparing all required financial statements; for preparing and executing all checks payable by PHA and for the deposit of all monies and other valuable effects in the name of PHA in such depositories as may from time to time be designated by the Board. The Treasurer shall be responsible for the preparation of the budget as provided in the Covenants. The Treasurer shall in general, perform all duties incident to the office of the treasurer of a corporation organized in accordance with Georgia law and such other duties, as from time to time, may be imposed upon him or her by the Board or by the President.

Section 8. Secretary. The Secretary shall attend, tally proxies, determine the presence of a quorum, record the attendance and votes and keep the minutes of all meetings of PHA and of the Board and shall have charge of such books and papers as the Board 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. Without limiting the foregoing, the Secretary shall keep PHA's seal and affix it on such papers and documents requiring it; shall keep appropriate current records showing the Members of PHA and their addresses, and shall see that all notices are duly given in accordance with the Covenants, the By-laws, or if required by law; and shall, in general, perform all other duties incident to the office of the Secretary as from time to time may be imposed by the Board or by the President.

Section 9. Compensation. Officers shall not be compensated for their services as officers. However, any officer may be reimbursed by PHA for reasonable expenses, with documented receipts, incurred in the performance of the officer's duties.

Section 10. Contracts with Interested Parties. No contract or transaction between PHA and one or more of its officers or directors, or between PHA and any other entity in which one or more of PHA's officers or directors are officers, directors, partners, or trustees, or have a financial interest, shall be void or voidable solely for this reason, or solely because PHA's officer or director is present at or participates in the meeting of the Board which authorizes the contract or transaction, or solely because their votes are counted for such purposes, if (a) the material facts as to their interest and as to the contract or transaction are disclosed or are known to the Board and the Board in good faith authorizes the contract or transaction by a vote sufficient for such purpose without counting the vote or votes of the interested director or directors; (b) the material facts as to their interest and as to the contract or transaction are disclosed or are known to Lot Owners entitled to vote thereon, and the contract or transaction is specifically approved or ratified in good faith by vote of such Lot Owners; and (c) if the contract or transaction is fair as to PHA as of the time it is authorized, approved, or ratified by the Board or the Lot Owners. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board, which authorizes the contract or transaction.

ARTICLE VI Liability and Insurance

Section 1. **Indemnification.** PHA shall indemnify any person (that is a member of the PHA) or persons who were or are a party, or is threatened to be made a party to any threatened or actual proceedings, whether civil, criminal, administrative or investigative (including any action or suit by or against PHA) by reason of the fact that they are or were a director, officer, employee or committee member of PHA, or have or are serving at the request of PHA, as a director, officer, employee, or committee, against expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by them in connection with such suit, action or proceeding if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of PHA; and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful, provided; however, that in the case of a criminal action or suit by or against PHA; (a) such person shall be indemnified only to the extent of their expenses (including attorneys' fees) actually and reasonably incurred by them in connection with the defense or settlement thereof and not for any criminal judgments or fines; and (b) no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or gross misconduct in the performance of his duty to PHA unless, and only to the extent that, the laws of the State of Georgia shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the courts shall deem proper. In the event of conflict between these provisions of indemnity and those provided in the Covenants, the broader coverage will apply.

Section 2. **Corporate Authorization.** Any indemnification hereunder (unless required by law or ordered by a court) shall be made by PHA only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, committee member or agent is proper in the circumstances because they have met the applicable standard of conduct set forth in this Article. Such determination shall be made (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, upon advice of independent legal counsel in a written opinion, or (c) by a majority vote of the membership of PHA; which vote and determination shall supercede and override any vote under provisions (a) or (b) of this section. Such membership vote may be challenged in a court of competent jurisdiction.

Section 3. **Other Rights.** The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, by-law, agreement, vote of the membership or disinterested directors or otherwise, both as to action in their official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, committee member or agent and shall inure to the benefit of the heirs, executor and administrators of such a person for any acts of commission or omission during their term of office or service.

Section 4. **Insurance.** PHA may purchase and maintain insurance on behalf of any person who is a director, officer, employee, committee member or agent of PHA, or is serving at the request of PHA as a director, officer, employee or agent against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not PHA would have the power to indemnify them against such liability under the provisions of the insurance laws of the State of Georgia or of the By-laws.

ARTICLE VII Use Restrictions and Enforcement

Section 1. **Authority and Enforcement.** The Property shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and the Common Property; provided, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Declaration, By-Laws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, when appropriate, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, By-Laws or rules and regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, and to suspend an Owner's right to vote or to use the Common Property for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. In the event that any Occupant of a Lot violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and the Occupant, and the fine shall first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Lot Owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the Lot until paid. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 2. Fining and Suspension Procedure. The Board shall not impose a fine or suspend the right to vote or to use the Common Property (unless an Owner 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 in which case such suspensions shall be automatic, unless and until notice of the violation is given as provided in subsection 2(a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection 2(b) below.

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

(b) Hearing. If the alleged violator timely challenges the proposed action, a hearing before the Board of Directors shall be held in executive session affording the violator a reasonable opportunity to be heard. The hearing shall be set at a reasonable time and date by the Board, and notice of the time, date (which shall be not less than ten (10) days from the giving of notice without the consent of the violator), and place of the hearing and an invitation to attend the hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator. Proof of such notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if the violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through its Board of Directors, may elect to enforce any provision of the Declaration, the By-Laws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section (2) of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the By-Laws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Lot Owner and shall be collected as provided herein for the collection of assessments.

ARTICLE VIII Miscellaneous

Section 1. Notices. Unless otherwise provided in the By-laws; all notices, demands, bills, statements, or other communications under the By-laws or the Covenants shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U.S. Mail, postmark shall be the date of notice, first class postage pre-paid:

(a) if to a Lot Owner, at the address which the Lot Owner has designated in writing and filed with the Secretary or the Managing Agent or, if no such address has been designated, at the address of the Lot of such Owner;

(b) If to the Association, the Board of Directors or the managing agent, at 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.

Section 2. Severability. The invalidity of any part of the By-laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of the By-laws.

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 fully the scope of the By-laws or the intent of any provision thereof.

Section 4. Gender and Grammar. The use of the masculine gender in the By-laws or Rules and Regulations 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 shall run from January 1 of each year until December 31 of that year. The fiscal year may be changed by resolution of the Board.

Section 6. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or By-Laws, in which case such higher vote shall be necessary to amend, these By-Laws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members holding seventy-five (75%) percent of the total eligible vote of the Association. Notice of any meeting 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 it is certified by the President and Secretary of the Association and recorded in the Fulton County, Georgia land records. Any amendment duly certified and recorded (containing any additional signatures required by the Declaration) shall be conclusively presumed to have been duly adopted in accordance with the Declaration and By-Laws. Owners whose voting rights have been suspended pursuant to the Declaration or these By-Laws shall not be counted as eligible votes toward the amendment requirement.

Section 7. Inspection of Books and Accounts. All members of the Association and any institutional holder of a first Mortgage shall be entitled to inspect current copies of the Covenants, the By-laws, the Rules and Regulations of PHA and any Books or records of PHA at a reasonable time and location specified by the Association, upon written request at least five (5) days before the date on which the member wishes to inspect and copy:

The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Member or mortgage holder.

Section 8. Deposits. All funds of PHA shall be deposited as soon as reasonably possible to the credit of PHA in such banks, trust companies, or other depositories as the Board may determine.

Section 9. Gifts. The Board may accept, on behalf of PHA, any contribution, gift, bequest, service, or device for the general purposes, or for any special purpose, of PHA.

Section 10. Agreements. Subject to the provisions of the Declaration or these By-Laws, all agreements and determinations lawfully authorized by the Board of PHA shall be binding upon all Lot Owners, their heirs, legal representatives, successors, assigns, or others having an interest in the Property. In performing its responsibilities hereunder, PHA, through the Board, shall have the authority to delegate to persons of its choice such duties of PHA as may be determined by the Board.

Section 11. Rights of Action. PHA and/or any aggrieved Lot Owner shall be granted a right of action against Lot Owners for failure to comply with the provisions of the Declaration, the By-laws, the Design Standards, the Rules and Regulations of PHA or equivalent documents, or with decisions of PHA which are made pursuant to authority granted PHA in such documents. Such action must be brought within two years of the violation or failure.

Section 12. Contracts. Contracts for goods or services shall not exceed a term of one (1) year. Provided, however the term of such contract may be renewable by mutual agreement of the parties for successive one (1) year terms.

Section 13. Managing Agent. The Board may employ a Managing Agent or a Property Manager for PHA (the "Managing Agent") at a rate of compensation established by the Board to perform such duties and services as the Board shall from time to time authorize in writing. Any Management Agreement entered into by PHA shall provide that such Agreement may be terminated with or without cause by either party upon thirty (30) days written notice thereof to the other party. The term of any such Management Agreement shall not exceed one (1) year; provided, however, that the term of any such Management Agreement may be renewable by mutual agreement of the parties for successive one (1) year periods.

Section 14. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board. However, after having received the Board's financial review at the annual meeting, the Owners may, by a Majority of the Association vote, require that the accounts of the Association be audited as a Common Expense by an independent accountant.

Section 15. Conflicts. The duties and powers of the Association shall be those set forth in the Georgia Nonprofit Corporation Code, the Declaration, these By-Laws, 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 Georgia Nonprofit Corporation Code, the Declaration, these By-Laws, or the Articles of Incorporation, then the provisions of the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these By-Laws, in that order, shall prevail, and each Owner of a 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.

Article IX **Rules and Regulations**

Section 1. Rules and Regulations. The Board may make and publish from time to time such Rules and Regulations as it deems appropriate. The Board shall provide each member with copies of all Rules and Regulations which shall be delivered as provided for under Article VIII, Section 1. Notices. Rules and Regulations may not be in conflict with the By-Laws or the Declarations of the PHA.

EXHIBIT "A"

CERTIFICATION OF APPROVAL

The undersigned, being the President and Secretary of Prestwick Homeowners Association, Inc., a Georgia nonprofit corporation (the "Association"), hereby certify under oath that the foregoing Amendment and Restatement to the By-laws of Prestwick Homeowners Association, Inc. was duly approved by the affirmative vote of a majority of the members at the January 28, 2002 annual meeting, in accordance with the terms of the existing By-laws.

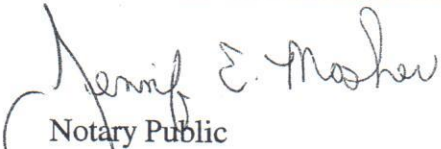


President



Secretary

Sworn to and subscribed before me this 21st day of September, 2002



Notary Public

My Commission Expires:

Seal

Notary Public, Gwinnett County, Georgia
My Commission Expires April 16, 2004