

BY - LAWS
OF
ASHTON WOOD HOMEOWNERS ASSOCIATION, INC.

(Printed November 1998)

TABLE OF CONTENTS

ARTICLE I	4
<u>GENERAL</u>	4
Section 1. <u>Applicability</u>	4
Section 2. <u>Name</u>	4
Section 3. <u>Definitions</u>	4
Section 4. <u>Purpose</u>	5
ARTICLE II	6
<u>MEMBERSHIP</u>	6
Section 1. <u>Resident Members</u>	6
Section 2. <u>Non-Resident Members</u>	6
Section 3. <u>Application and Selection</u>	6
Section 4. <u>Transfer of Membership</u>	7
Section 5. <u>Conversion of Memberships</u>	7
Section 6. <u>Deceased Members</u>	7
Section 7. <u>Voting</u>	7
Section 8. <u>Termination of Membership</u>	8
ARTICLE III	9
<u>MEETINGS OF MEMBERS</u>	9
Section 1. <u>Annual Meetings</u>	9
Section 2. <u>Special Meetings</u>	9
Section 3. <u>Notice of Meetings</u>	9
Section 4. <u>Waiver of Notice</u>	9
Section 5. <u>Quorum</u>	9
Section 6. <u>Adjournment</u>	9
Section 7. <u>Proxy</u>	10
Section 8. <u>Action Without a Meeting</u>	10
Section 9. <u>Order of Business</u>	10
ARTICLE IV	11
<u>BOARD OF DIRECTORS</u>	11
<u>A. COMPOSITION AND SELECTION</u>	11
Section 1. <u>Composition</u>	11
Section 2. <u>Term of Office</u>	11
Section 3. <u>Removal of Members of the Board of Directors</u>	11
Section 4. <u>Vacancies</u>	11
Section 5. <u>Compensation</u>	11
Section 6. <u>Director Conflicts of Interest</u>	11
Section 7. <u>Nomination</u>	12
Section 8. <u>Elections</u>	12
<u>B. MEETINGS</u>	12
Section 9. <u>Regular Meetings</u>	12
Section 10. <u>Special Meetings</u>	12
Section 11. <u>Waiver of Notice</u>	13
Section 12. <u>Conduct of Meetings</u>	13
Section 13. <u>Open Meetings</u>	13
Section 14. <u>Action Without a Meeting</u>	13
<u>C. POWERS AND DUTIES</u>	13

Section 15. <u>Powers and Duties</u>	13
Section 16. <u>Management Agent</u>	14
Section 17. <u>Borrowing</u>	14
Section 18. <u>Liability and Indemnification of Officers and Directors</u>	14
D. <u>COMMITTEES</u>	15
Section 19. <u>Nominating Committee</u>	15
Section 20. <u>Swim and Tennis Committee</u>	15
Section 21. <u>Other Committees</u>	15
Section 22. <u>Service on Committees</u>	15
ARTICLE V.....	16
<u>OFFICERS</u>	16
Section 1. <u>Designation</u>	16
Section 2. <u>Election of Officers</u>	16
Section 3. <u>Removal of Officers</u>	16
Section 4. <u>Vacancies</u>	16
Section 5. <u>President</u>	16
Section 6. <u>Vice President</u>	16
Section 7. <u>Secretary</u>	16
Section 8. <u>Treasurer</u>	16
Section 9. <u>Other Officers</u>	17
Section 10. <u>Agreements, Contracts, Deeds, Leases, Etc.</u>	17
ARTICLE VI.....	18
<u>RULE MAKING AND ENFORCEMENT</u>	18
Section 1. <u>Authority and Enforcement</u>	18
Section 2. <u>Enforcement, Sanctions and Suspension</u>	18
ARTICLE VII.....	19
<u>ASSESSMENTS, FEES, DUES AND CHARGES</u>	19
Section 1. <u>Membership Fees</u>	19
Section 2. <u>Reimbursement Charge</u>	19
Section 3. <u>Assessments</u>	19
Section 4. <u>Collection of Fees</u>	19
Section 5. <u>Computation of Operating Budget</u>	19
Section 6. <u>Capital Budget and Contribution</u>	20
ARTICLE VIII.....	21
<u>INSURANCE</u>	21
Section 1.....	21
Section 2.....	21
Section 3.....	21
Section 4.....	22
ARTICLE IX.....	23
<u>MISCELLANEOUS</u>	23
Section 1. <u>Notices</u>	23
Section 2. <u>Severability</u>	23
Section 3. <u>Captions</u>	23
Section 4. <u>Gender and Grammar</u>	23
Section 5. <u>Fiscal Year</u>	23
Section 6. <u>Conflicts</u>	23
Section 7. <u>Amendment</u>	23

Section 8. Books and Records..... 23
Section 9. Preparer..... 23
CERTIFICATION..... 24

BY - LAWS
OF
ASHTON WOOD HOMEOWNERS ASSOCIATION,
INC.

Article I

General

Section 1. Applicability

These By-Laws provide for the self-government of Ashton Wood Homeowners Association, Inc., in accordance with the Articles of Incorporation filed with the Secretary of State and the Declaration of Covenants, Conditions and Restrictions for Ashton Wood, recorded in the Gwinnett County, Georgia land records ("Declaration").

Section 2. Name

The name of the corporation is Ashton Wood Homeowners Association, Inc., ("Association").

Section 3. Definitions.

The words used in these By-Laws shall have their normal, generally accepted meanings or the meanings given in the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in these By-Laws, and the Articles of Incorporation shall be defined as follows:

- (a) "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of Ashton Wood Homeowners Association, Inc., which have been filed with the Secretary of State of the State of Georgia.
- (b) "Association" shall mean Ashton Wood Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.
- (c) "Board" or "Board of Directors" shall mean the elected body responsible for management and operation of the Association.
- (d) "Common Expenses" shall mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, and operating the portions of the Community Property required or permitted to be maintained by the Association.
- (e) "Community Property" shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Members.
- (f) "Lot" shall mean a lot within the Ashton Wood Subdivision, as more particularly defined in the Declaration of Covenants, Conditions and Restrictions for Ashton Wood.

- (g) "Majority" means those eligible votes, Members, or other group as the context may indicate totalling more than fifty (50%) percent of the total eligible number.
- (h) "Member" shall mean those persons who are members of the Association, as provided herein.
- (i) "Non-Resident Member" shall mean a person who does not own property or reside in Ashton Wood Subdivision but who is a Member of the Association under Article II, Section 2 of these Bylaws.
- (j) "Officer" shall mean those individuals who are elected by the Board to serve as President, Vice President, Secretary, or Treasurer, or such other subordinate officers as the Board may determine necessary.
- (k) "Owner" shall mean the record title holder of a Lot within the Property, but shall not include a mortgage holder.
- (l) "Person" shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.
- (m) "Property" shall mean all that real estate which is part of the Ashton Wood Subdivision.
- (n) "Resident" shall mean a person who resides in Ashton Wood Subdivision.
- (o) "Subdivision" or "Property" shall mean the residential housing subdivision located in Gwinnett County, Georgia known as "Ashton Wood."
- (p) "Voting Members" shall mean Property Owners or Residents of Ashton Wood Subdivision.

Section 4. Purpose.

The Association shall have the responsibility of administering the Property, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Property and performing all of the other acts that may be required to be performed by the Association pursuant to the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which these By-Laws or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association Membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below

Article II
Membership

Section 1. Resident Members.

All Owners and Residents of Lots in the Ashton Wood Subdivision, and such other persons as are authorized herein, shall be entitled to membership in the Association; provided, however, membership shall continue only as long as the Member is current in the payment of all Association dues and other charges authorized herein. 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 (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Lot. Notwithstanding the above, a person who holds an interest in or title to a Lot merely as security for a debt or other obligation shall not be eligible for membership.

(a) **Basic Members.** A Basic Membership shall entitle a Member and a Member's family to attend social functions. Basic Membership supports maintaining, repairing, replacing, and operating the portions of the Community Property required or permitted to be maintained by the Association, except for the swim and tennis facilities. Basic Members shall not have any right to use the pool or tennis facilities.

(b) **Full Members.** A Full Membership shall entitle a Member and a Member's family to use all Community Property, including, but not limited to the pool and tennis facilities and to attend community functions.

(c) **Entity Members.** In the event an Member is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer,, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity or entities in the affairs of thb Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity or entities which are the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these By-Laws.

Section 2. Non-Resident Members.

Persons who neither reside in or own property in Ashton Wood shall be eligible for Non-Resident Membership subject to application and approval as provided in Section 3 below and subject to such other restrictions as may be contained herein. Non-Resident membership shall entitle such Member and his/her family to use the pool and tennis facilities.

Section 3. Application and Selection.

Application and selection for membership in the Association shall be governed in accordance with procedures established by the Board and administered from time to time by the Board of Directors pursuant to the following:

(a) Application

(i) **Owners and Residents** shall submit an application form which shall be provided by the Board of Directors and which shall be considered only if complete. Upon application and

payment of required fees, such persons shall be members in the category for which they have applied.

(ii) Non-Resident Members shall submit an application form which shall be provided by the Board of Directors and which shall be considered only if complete. The Board of Directors shall review applications and it may interview applicants. Any applicant who fails to appear for an interview for which he was given at least ten (10) days, notice shall be deemed to have withdrawn his application unless the Board of Directors shall excuse the absence. After such investigation and consultation as it may deem necessary, the Board of Directors shall vote on whether or not to accept the applicant.

The Board of Directors may deny membership to any applicant for Non-Resident Membership for any reason or for no reason at all. However, in no event shall membership criteria, as determined by the Board, discriminate in any manner against any person or persons on account of race, marital status, sex, religion, creed, color, ancestry, age (provided such applicant is at least twenty-one (21) years of age) or national origin. Such membership criteria as are applied at any time shall be applied uniformly to all persons who then are applicants for Non-Resident Membership.

Immediately upon the decision of the Board of Directors as to an applicant, the Board shall notify the applicant of the result. The notice of selection for membership shall be accompanied by copies of the Rules and Regulations of the Association.

Section 4. Transfer of Membership.

Except as provided in Section 6 with respect to deceased Members, membership in the Association, including swim and tennis membership, shall be transferable with the change in home ownership by Title and Warranty Deed of said Member's property.

Section 5. Conversion of Memberships.

To change a membership from one type of membership to another, a Member shall make application to the Board of Directors and shall pay in full any difference between the fees for the desired class of membership at the time of notification and the fees that were applicable to the class being upgraded at the time such person became a Member. Such Member shall also pay membership fees and dues at the rate for the new membership class from the date of such notification by the Board of Directors. No refund of any fees shall be made upon any change in class of membership. If a Member converts from a Full Membership to a Basic Membership or drops his or her membership and reapplies within three years for a Full Membership, the Member shall be responsible for all Assessments (as provided in Article VII, Section 3 below) which came due during the period when they were a Basic Member or not a Member; provided, however, such Members shall not be responsible for the difference in annual dues.

Section 6. Deceased Members.

Notwithstanding any other provision hereof, the spouse of a deceased Member shall automatically assume the deceased Member's membership, provided the spouse qualifies for the same class of membership as held by the deceased Member. If the spouse otherwise qualifies for membership and the deceased Member's account is current, the membership may be transferred to such spouse without additional payment and may be issued in such spouse's name.

Section 7. Voting.

Each Voting Member shall be entitled to one equally weighted vote per Membership, which vote may be cast by the Member, the Member's spouse, or by a lawful proxy as provided below. When an Owner is a Member and more than one (1) Person holds title to a Lot, the Membership vote for such Lot

shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Membership. If only one (1) co-owner of a Lot attempts to cast the vote for a Membership, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Lot. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner or resident shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if that 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. If the voting rights of an Owner or resident have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum.

Section 8. Termination of Membership.

(a) An Owner's membership shall automatically terminate upon the Member's sale of a Lot or home, unless the Member owns other Property in the Community. The membership of a Resident who is not an owner terminates upon termination of the Member's lease of Property in the Community.

(b) Non-Resident Membership expires when the calendar year for which annual dues have been paid ends.

(c) Basic Membership expires at the end of the calendar year.

(d) Membership may be terminated through enforcement action taken by the Board of Directors pursuant to Article VI below.

(e) No refunds shall be paid to any Member of any dues, fees or assessments, except the return of the security deposits paid for any community/pool keys upon return of such keys to the Board of Directors.

Article III
Meetings of Members

Section 1. Annual Meetings.

A regular annual meeting of the voting Members shall be held during the month of January of each year with the date, hour, and place to be set by the Board of Directors.

Section 2. Special Meetings.

Special meetings of the Members may be called for any purpose at any time by the President, the Secretary, or by request of any two (2) or more members of the Board of Directors, or upon written petition of twenty-five (25%) percent of the Members. Any such written 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 in 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. Notice of Meetings.

It shall be the duty of the Secretary to mail or deliver to each Voting Member a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Voting Member wishes notice to be given at an address other than his or her Lot, the Member shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 4. Waiver of Notice.

Waiver of notice of meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a member, whether in person or represented by proxy, shall be deemed waiver by such Member of notice of the time, date, and place thereof unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 5. Quorum.

Except as may be provided elsewhere, the presence of Voting Members, in person or by proxy, entitled to cast ten (10%) of the vote of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Members whose voting rights have been suspended pursuant hereto shall not be counted as eligible votes toward the quorum requirement.

Section 6. Adjournment.

Any meeting of the Voting Members may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Members holding the Majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original

session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 7. Proxy.

Any Member entitled to vote may do so by written proxy duly executed by the Member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, U.S. mail or telefax transmission to any Board member. Proxies may be revoked only by written notice delivered to the Association, except that the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 8. Action Without a Meeting.

In the discretion of the Board, any action that may be taken at any annual, regular, or special meeting of Voting Members may be taken without a meeting if the Association delivers a written ballot to every Voting Member entitled to vote on the matter.

(a) A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

(b) Approval by written ballot pursuant to this Section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) All solicitations for votes by written ballot shall: (1) indicate the number of responses needed to meet the quorum requirements; (2) state the percentage of approvals necessary to approve each matter other than election of directors; and (3) specify the time by which a ballot must be received by the Association in order to be counted.

(d) A written ballot may not be revoked. The Association shall maintain such ballots in its file for a period of at least three (3) years.

Section 9. Order of Business.

At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration, these By-Laws or the Articles of Incorporation.

Article IV

Board of Directors

A. Composition and Selection.

Section 1. Composition.

The affairs of the Association shall be governed by a Board of Directors. The Board shall be composed of not less than five (5) nor more than nine (9) persons, as determined by Board resolution. The directors shall be Voting Members or spouses of such Members; provided, however, no Resident Member and his or her spouse may serve on the Board at the same time.

Section 2. Term of Office.

Those directors serving on the effective date of these By-Laws shall remain in office until the terms for which they were elected expire. Successor directors shall be elected by the vote of those Members present or represented by proxy, at the annual or other meeting of the Members, a quorum being present. Directors shall assume office at the close of the annual meeting at which the directors are elected or upon notification of election results to the Members, if elections are conducted by ballot as provided in Section 8 below. At the expiration of the term of office of each Board member, and at each annual meeting thereafter, a successor shall be elected to serve for a term of one (1) year. The Board members shall hold office until their respective successors shall have been elected by the Association.

Section 3. Removal of Members of the Board of Directors.

At any regular or special meeting of the Association duly called, any one or more of the Board members may be removed with or without cause by a Majority of the Voting Members of the Association and a successor may then and there be elected to fill the vacancy thus created. Moreover, any director who has had three (3) consecutive absences from regularly scheduled Board meetings or is more than thirty (30) days past due in the payment of any assessment may be removed by the vote of a Majority of the other directors. 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 4. Vacancies.

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

Section 5. Compensation.

Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a Majority vote of the Voting Members. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors.

Section 6. Director Conflicts of Interest.

Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the

director's interest is disclosed to the Board and the contract is approved by a Majority of the directors who are at a Board meeting at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed and to discuss the proposed contract, unless requested by any other director to leave the room during the discussion.

Section 7. Nomination.

Nomination for election to the Board shall be made by a Nominating Committee which shall be appointed by the Board and shall consist of at least one (1) Board member and at least two (2) other Voting Members of the Association who are not Board members, at least thirty (30) days prior to the annual meeting to serve a term of one (1) year. The members of the Nominating Committee shall be announced at the annual meeting. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. Nominations shall also be allowed from the floor at any meeting held for election of directors, or upon timely written nomination provided to the Board in the case of elections by ballot. The Board shall have the authority to establish deadlines for the submission of nominations in the case of elections by ballot. Each candidate shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election. No Member shall be nominated for election to the Board, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment. Failure to nominate candidates in accordance with this Section shall in no way invalidate the election of directors who were not nominated in accordance with the provisions hereof.

Section 8. Elections.

All Voting Members eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. If voting for election of Board members is conducted at an annual meeting, then voting shall be by secret written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted). However, in the discretion of the Board, election of directors may be conducted by ballot in accordance with Article III, Section 8 hereof. If elections are conducted at a meeting, the results of the election shall be announced at such meeting, and directors elected shall assume their positions at the close of such meeting. If elections are conducted by ballot, the Board shall send or give written notification of the election results to the Members within seven (7) days after the close of the election, and the directors elected shall assume office at the time of the sending or giving of such notice. Notwithstanding anything to the contrary herein, the Board may delegate to the Nominating Committee responsibility for conducting the election.

B. Meetings.

Section 9. Regular Meetings.

Regular Board meetings may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least quarterly. The newly elected Board shall meet within ten (10) days after the directors assume their positions.

Section 10. Special Meetings.

Special Board meetings may be called by the President on three (3) days notice to each director given by mail, in person, by telephone, or by facsimile transmission, which notice shall state the time, place, and purpose of the meeting. Special Board meetings shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 11. Waiver of Notice.

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

Section 12. Conduct of Meetings.

The President shall preside over all Board meetings, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. A Majority of directors shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 13. Open Meetings.

All Board meetings shall be open to all voting Members, but Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the President. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 14. Action Without a Meeting.

Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a Majority of the directors consent in writing or by telephone survey to such action and such consents are filed with the Board minutes.

C. Powers and Duties.

Section 15. Powers and Duties.

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

- (a) preparation and adoption of the annual dues and annual budget, in which there shall be established the contribution of each Member to the Common Expenses (which annual dues may vary from year to year, but shall be equal with respect to each Lot in any year), and establishing the means and methods of collecting such dues, and, in the discretion of the Board, establishing a period of installment payments of the annual dues;
- (b) making other assessments to defray the Common Expenses and establishing the means and methods of collecting such assessments;
- (c) providing for the operation, care, upkeep, and maintenance of all of areas which are maintained by the Association;

- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. § 14-3-302, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations and imposing sanctions for violation thereof, including, without limitation, monetary fines;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) enforcing by legal means the provisions of these Bylaws, the rules and regulations adopted by it, and the provisions of the Declaration, and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;
- (i) in its discretion, obtaining and carrying insurance against casualties and liabilities, as provided herein, and paying the premium cost;
- (j) paying the cost of all services rendered to the Association or its Members which are not directly chargeable to Members;
- (k) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred; and
- (l) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, condominiums, or other associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 16. Management Agent.

The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board shall use reasonable effort to obtain a management agreement which shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon not more than thirty (30) days' written notice.

Section 17. Borrowing.

The Board shall have the power to borrow money for any lawful purpose including, without limitation, acquisition, maintenance, repair or restoration of the entry features or other facilities, with the approval of the Members of the Association holding at least a majority of the eligible vote of the Association.

Section 18. Liability and Indemnification of Officers and Directors.

The Association shall indemnify every officer and director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such officer or director in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an

officer or director, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer or director in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Board may, as a Common Expense, maintain adequate general liability and officers' and directors, liability insurance to fund this obligation.

D. Committees.

Section 19. Nominating Committee.

Pursuant to Section 7 of this Article, there shall be a Nominating Committee composed of at least three (3) members appointed in the manner and to perform the functions specified in Section 7 of this Article.

Section 20. Swim and Tennis Committee.

There shall be established a committee of at least five (5) Members appointed by the Board to perform the function of providing the day-to-day operating responsibility for the swim and tennis facilities, and to make recommendations to the Board regarding the facility, such as annual budget, maintenance and repair, operating hours, rules and regulations, and other related matters.

Section 21. Other Committees.

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

Section 22. Service on Committees.

Unless otherwise provided in these By-Laws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board. Any committee member may be removed with or without cause at any time and with or without a successor being named.

Article V

Officers

Section 1. Designation.

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

Section 2. Election of Officers.

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

Section 3. Removal of Officers.

Upon the affirmative vote of a Majority of the Board members, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4. Vacancies.

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

Section 5. President.

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

Section 6. Vice President.

The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 7. Secretary.

The Secretary shall keep the minutes of all Member and Board meetings 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 under Georgia law.

Section 8. Treasurer.

The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, for the deposit of all monies

and other valuable effects in the name of the Association in such depositories as may from time to time be designated by the Board, and for preparing the Association budget. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 9. Other Officers.

Other offices may be created by the Board, and the Board members which hold such offices shall have such titles and duties as are defined by the Board.

Section 10. Agreements, Contracts, Deeds, Leases, Etc.

All agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least two (2) of ficers or by such other person or persons as may be designated by Board resolution.

Article VI

Rule Making and Enforcement

Section 1. Authority and Enforcement.

The Board shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the Members' conduct, use, and enjoyment of the Property; provided, copies of all such rules and regulations shall be furnished to all Members. Any rule or regulation may be repealed by the vote of a Majority of the Members. Every Member shall comply with the rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association to take action to enforce the terms of the rules and regulations, which may include suspension of membership upon ten (10) days written notice and/or imposition of reasonable fines.

Section 2. Enforcement, Sanctions and Suspension.

The Board may levy such sanctions as it deems appropriate, including reprimands, expulsion, fines, or suspension of membership or use privileges, against any Member for cause. "Cause" shall mean any of the following:

(a) Default. Being in default in the payment of any sums due for a period in excess of thirty (30) days after a bill therefor has been given.

(b) Detrimental Conduct. Acts in or on the Property by a Member, a Member's family member or guest, which the Board shall find to be detrimental to the best interests of the Association including, without limitation, conduct violating Association rules and regulations or policies established by the Board or conduct likely to endanger the welfare, safety, harmony or good reputation of the Association or its Members.

No Member shall be expelled pursuant to this Section without a hearing before the Board which shall be conducted upon no less than ten (10) days, notice in writing to such Member. The notice shall state the charges for expulsion and the time and place of the hearing thereon. All rights and privileges of the Member may be suspended from the date of such notice until final disposition of the matter. Such Member shall have the right to be present at the hearing and may elect to be heard orally or in writing.

If at such hearing the Board shall determine that the conduct constitutes cause for expulsion, it shall notify such Member of its decision. Expulsion shall take effect immediately upon issuance of notification to the Member. No refund of all or part of the annual fee, assessments or periodic dues shall be made upon expulsion.

Article VII

Assessments, Fees, Dues and Charges

Section 1. Membership Fees.

Members shall pay annual fees, initiation fees (if any), periodic dues and other charges in amounts and at times established by the Board pursuant to this Article. Unless otherwise determined by the Board, all membership fees required to be paid pursuant to this Section are nonrefundable.

Section 2. Reimbursement Charge.

The Board shall levy a Reimbursement Charge against any Member whose actions, including failure to comply with any Association policies, rules, or regulations, shall cause the expenditure of funds by the Association in performance of its functions. Such charges shall be limited to the amount so expended and interest thereon at the maximum rate then permissible under Georgia law from the date expended by the Association until paid and shall be due and payable to the Association when levied.

Section 3. Assessments.

Assessments may be levied against all Members for necessary nonbudget expenditures. Assessments may extend beyond the fiscal year in which the Assessment is levied. The amounts and terms of payment of any such Assessment must be approved by a majority of the Members against whom such assessment will be levied. Membership of any Member who does not pay a duly approved Assessment shall be terminated; provided, however, the membership shall be reinstated when the Assessment is paid.

Section 4. Collection of Fees.

Each amount charged hereunder as assessments, membership fees and dues, fines, Reimbursement Charges, or other charges (including charges incurred by family or guests of a Member) shall be a separate, distinct, and personal debt and obligation of the Member against whom the amount is charged. In the event of a default in the payment of any such amounts, the Association shall be entitled to levy late charges in the greater of \$10.00 or 10% of the amount due, suspend membership rights, and take such other action is authorized under Georgia law; provided, however, the Board may suspend Membership for nonpayment of assessments, fees or charges without the need for a hearing as provided in Article V, Section 2 herein.

Section 5. Computation of Operating Budget.

It shall be the duty of the Board at least thirty (30) days prior to the beginning of the Association's fiscal year to prepare a budget covering the estimated costs of operating the Community Property during the coming year.

The Board shall cause the budget and notice of the annual dues to be levied against each Member for the following year to be delivered to each Member at least twenty-one (21) days prior to the Association's annual meeting. The budget, including annual fees, Assessments and other charges, shall become effective unless disapproved by a majority of the Voting Members. If a quorum is not obtained at the annual meeting, if the membership disapproves the proposed budget or if Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and fees and Assessments to be delivered to the Members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the Voting Members, as provided in the By-Laws for special meetings, the new budget and Assessments and fees shall take effect without a meeting of the Voting Members.

The budget shall reflect all amounts to be received from initiation fees, if any, annual dues, Assessments, and from all other sources.

Section 6. Capital Budget and Contribution.

The Board of Directors shall annually prepare a capital budget and a separate capital budget for the pool and tennis courts only, which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budgets, with respect both to amount and timing by fees and Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and annual fees as provided in Section 5 of this Article. A copy of the capital budget shall be distributed to each Voting Member in the same manner as the operating budget.

Article VIII

Insurance

Section 1.

The Association's Board of Directors or its duly authorized agent shall have the authority to obtain insurance for all insurable improvements on the Community Property. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

Section 2.

The Board shall obtain a public liability policy applicable to the Community Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents in their capacities as such, and, if reasonably available, directors' and officers, liability insurance. The public liability policy shall have a combined single limit of at least One million (\$1,000,000.00) Dollars.

Section 3.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee, for the respective benefitted parties, as further identified in subparagraph (b), below. Such insurance shall be governed by the provisions hereinafter set forth:

- (b) All policies shall be written with a company licensed to do business in Georgia.
- (c) All policies on the Community Property shall be for the benefit of the Association and its Members.
- (d) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement-negotiations, if any, related thereto.
- (e) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Property is located.
- (f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - (i). a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the owners and -their respective tenants, servants, agents, and guests;
 - (ii). a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii). a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners;

(iv). a provision that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee; and

(v). that no policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days' prior written notice to the Association.

Section 4.

In addition to the other insurance required by this Paragraph, the Board shall obtain workmen's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds.

Article IX
Miscellaneous

Section 1. Notices.

Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under 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.

Section 2. Severability.

The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these By-Laws or the Declaration.

Section 3. Captions.

The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision thereof.

Section 4. Gender and Grammar.

The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 5. Fiscal Year.

The fiscal year of the Association may be set by Board resolution, or, in the absence thereof, shall be the calendar year.

Section 6. Conflicts.

If there are conflicts or inconsistencies between the Georgia Nonprofit Corporation Code, these By-Laws, or the Articles of Incorporation, then the provisions of the Georgia Nonprofit Corporation Code, as may be applicable, the Articles of Incorporation and these By-Laws, in that order, shall prevail.

Section 7. Amendment.

These By-Laws may be amended by the affirmative vote of two-thirds of the votes cast or a majority of the voting power, whichever is less. Notice of any meeting at which an amendment will be considered shall state that fact and the subject matter of the proposed amendment.

Section 8. Books and Records.

All Members of the Association and any institutional holder of a first Mortgage shall be entitled to inspect and copy the Association's books and records, to the extent provided in O.C.G.A. § 14-3-1602, 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 or Person 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 Person.

Section 9. Preparer.

These By-Laws were prepared by Weissman, Nowack, Curry & Zaleon, P.C., 181 Fourteenth Street, Second Floor, Atlanta, Georgia 30309

CERTIFICATION

I, the undersigned, do hereby certify:

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

That the foregoing By-Laws constitute the By-Laws of said Association, as duly adopted by the Board of Directors of the Association, in accordance with O.C.G.A. § 14-3-206(a) on the 19th day of October, 1998.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 17th day of November, 1998.

ASHTON WOOD HOMEOWNERS ASSOCIATION, INC.

Eleanor F. Whalen
Secretary

