

BYLAWS OF
EAGLE RIDGE PROPERTY OWNERS ASSOCIATION, INC.

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As adopted by the Board of Directors on May 20, 2001

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ARTICLE I
NAME, ORGANIZATION, REGISTERED AGENT, ETC.

1.1 Name. The name of this corporation shall be "Eagle Ridge Property Owners Association, Inc." (the "Association").

1.2 Organization. The Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code, as amended from time to time (the "Georgia Code"), for the purpose of transacting any or all lawful business for which nonprofit corporations may be incorporated under the Georgia Code; provided, however, that such business shall be performed at all times to qualify as a "homeowners association" (as such term is defined in section 528(c)(1) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code")) in order to be exempt from income tax pursuant to section 528(a) of the Code.

1.3 Registered Office and Agent. The Association shall maintain a registered office as required by section 14-3-502 of the Georgia Code, at which it shall maintain a registered agent. The registered office may, but need not, be identical with the principal office, and the address of the registered office may be changed from time to time by the Board of Directors. The Association may also have offices and places of business at such other places within or without the City of Marietta, Georgia as the Board of Directors may from time to time determine.

1.4 Books and Records. The Association shall keep correct and complete books and records of account, and it shall also keep minutes of the proceedings of the Board of Directors and of committees having any of the authority of the Board of Directors, and shall keep at its registered or principal office a record giving names, addresses and telephone numbers of the Board of Directors.

1.5 Fiscal Year. The fiscal year of the Association shall be from July 1 through June 30 of each year.

1.6 Effective Date. These Bylaws and any amendment thereto shall become effective upon adoption by the Board of Directors.

1.7 Definitions. All capitalized terms not defined herein shall have the meanings ascribed to them in that certain Declaration of Covenants, Restrictions and Easements for Eagle Ridge, Unit III, Phases II and III (the 'Declaration'), as it may be amended from time to time.

ARTICLE II

MEETINGS OF THE MEMBERS

2.1 Place of Meetings. Meetings of the Association shall be held at such suitable place as may be designated by the Board of Directors, either within or without the Subdivision.

2.2 Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association and each subsequent regular annual meeting of the members shall be held no later than 120 days after the close of the Association's fiscal year at a date and time to be determined by the Board of Directors; provided, however, that the failure of the Association to hold an annual meeting at the date and time specified herein shall not affect the validity of any action taken by or on behalf of the Association.

2.3 Special Meetings. Special meetings may be called by the President of the Association, or, if there be no President, by a resolution of a majority of the Board of Directors or upon a petition signed by at least a majority of the members. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

2.4 Notice of Meeting. It shall be the duty of the Secretary of the Association to mail by first-class or registered mail or to cause to be delivered to each member of record a notice of each annual or special meeting of the Association, stating the purpose of the special meeting, as well as the time and place where it is to be held. The notice shall contain such other details or information as may be required by the Georgia Code or as may be determined by the Board of Directors. With respect to each Lot, notice shall be mailed or delivered to the street address of such Lot, unless the member who is the owner of such Lot shall have previously designated an alternative address by notice in writing to the Secretary of the Association. Notices shall be delivered no fewer than 10 days and no more than 60 days prior to the meeting date.

2.5 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in a writing signed by such member, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed (a) a waiver by such member of notice or defective notice of the meeting, unless such member specifically objects to lack of proper notice at the time the meeting is called to order; and (b) a waiver of any objection to the consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

2.6 Adjournment of Meetings. If any meetings of the members of the Association cannot be held because a quorum is not present, then a majority of the members who are present

at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. Any meeting of the members at which a quorum is present may also be adjourned to such future date as may be approved by the members at such meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.7 Voting Rights. Notwithstanding any other provision herein to the contrary, members shall have no voting rights, other than (1) to elect the members of the Board of Directors in accordance with section 2.10 hereof and (2) as may be permitted by the Declaration. However, nothing herein shall prevent the Board of Directors from having the right in its sole discretion to submit proposals for approval of the members. Each member shall be entitled to cast one vote on any matter presented for approval at a meeting of members.

2.8 Proxies.

- (a) At all meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing, executed, dated and filed with the Secretary before the appointed time of the meeting. Every proxy shall be revocable and shall automatically cease upon the conveyance by the member of his or her Lot, or upon receipt of notice by the Secretary of the death or incompetence of a member, or of written revocation, or upon the expiration of 11 months from the date of the proxy.
- (b) The Secretary of the meeting shall have discretion in good faith to reject any vote, consent, waiver or proxy appointment if he or she has a reasonable basis for doubt about the validity of the signature thereupon or about the signatory's authority to sign for the member or to cast a vote. Any action taken by the Secretary in accordance with this section 2.8(b) shall not subject the Association or the Secretary to liability for damages to any member as a consequence of the acceptance or rejection. Any action by the Association based upon such acceptance or rejection is valid unless a court of competent jurisdiction determines otherwise.

2.9 Quorum. The presence, in person or by proxy, of 10% of the members entitled to cast a vote on a matter shall constitute quorum at all meetings of the Association. The members at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

2.10 Nomination and Election of Directors. Nominations for election to the Board of Directors may be made by a Nominating Committee or other procedures established by the Board of Directors. Nominations may also be made from the floor by members at the annual meeting. At any meeting of the members at which one or more directors have been nominated for election, the persons receiving the largest number of votes shall be elected. All votes cast for election of directors at the annual meeting shall be by secret written ballot.

2.11 Approval of Other Matters. Unless a greater vote is required by the Articles of Incorporation, the Georgia Code, the Declaration or applicable law, a proposal shall be approved by the members if the number of votes cast in favor of such proposal at such meeting (whether in person or by proxy) exceed the number of votes cast against such proposal. For purposes of any action at which a majority or greater vote of all of the members is required, the total number of votes entitled to be cast shall not include any Lot that the Board of Directors has reason to believe is vacant, unless the owner of such Lot shall have notified the Board of Directors in advance of an address to which voting materials should be sent.

2.12 Definition of Member. The term "member" shall include every person who is a record owner of any Lot in the Subdivision; provided, however, that except as otherwise provided in the Declaration (or any other document or instrument that touches and concerns a particular Lot). If more than one person holds record ownership in or with respect to any particular Lot, all such persons shall be members and the vote for such Lot shall be exercised as such persons may determine, but in no event shall more than one vote be cast with respect to any Lot in the Subdivision. Membership is appurtenant to and inseparable from ownership of a lot in the Subdivision.

ARTICLE III BOARD OF DIRECTORS

3.1 Number of Directors. The affairs of the Association shall be controlled and administered by a Board of Directors consisting of at least three (3) and no more than five (5) members, as shall be fixed from time to time by resolution of the directors.

3.2 Term of Directors. The original members of the Board of Directors shall be designated in the Articles of Incorporation, and the initial terms of the original directors shall end on July 1, 2001, or until the successors of such directors have been duly qualified and seated. After such initial term, the duration of the succeeding terms of directors shall be one (1) year for each term, or until the successors of such directors have been duly qualified and seated. A director may serve any number of terms consecutively.

3.3 Removal of Directors.

- (a) Except as provided in section 3.3(b), a director may be removed by the Members but only for cause and then only by the affirmative vote of two-thirds (2/3) of all the Members. A director may only be removed as described above at a meeting called for the purpose of removing the director and the meeting notice must state that the purpose, or one of the purposes, of the meeting is the removal of the director.
- (b) Notwithstanding the foregoing, and pursuant to the authority provided by section 14-3-808(9) of the Georgia Code, the Board of Directors may, in its sole discretion, remove any member of the Board of Directors who has failed to attend three (3) or more meetings consecutively where such member has not provided the Board of Directors good reason (in the

Board of Directors' sole judgment) for the failure to attend such meetings. Such member of the Board of Directors may only be removed if a majority of the directors then in office vote for removal. However, this section 3.3(b) shall not apply to the members of the initial Board of Directors.

3.4 Vacancies. Vacancies created by resolution of the Board of Directors increasing the number of directors, by expiration of the terms of directors or by the death, removal, resignation, or incapacity of any member of the Board of Directors may be filled by the affirmative vote of a majority of the directors then remaining in office, even though less than a quorum. Each person so appointed shall serve the unexpired portion of the term.

3.5 Board Meetings. The Board of Directors shall meet regularly at a time, date, and place that shall be fixed by the Board of Directors, but at least four meetings shall be held during each fiscal year with at least one meeting per fiscal quarter. Special meetings of the Board of Directors may be called at any time by any two directors. All directors shall be given at least seven days' notice of the date of a regular meeting and at least three and no more than 60 days' notice of special meetings. Notice of meetings may be given personally or by first class mail, electronic mail, or facsimile transmission and shall be deemed given when mailed or when the electronic mail or facsimile transmission is sent, addressed to the director at his or her business or residence address, or sent to the director's previously provided facsimile number or previously provided electronic mail address. Neither the business to be transacted at, nor the purpose of any meeting of, the Board of Directors need be specified in the notice (or waiver of notice) of such meeting except in the following cases: the removal or election of directors; the removal or election of officers; amendments to these Bylaws; or amendments to the Articles of Incorporation. Notice of any such meeting or of the purpose of a special meeting may be waived by an instrument in writing. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and waiver of any and all objections to the place of the meeting, the time of the meeting, the manner in which it has been called or convened, and of notice of the purpose of the meeting, except when a director states, at the beginning of the meeting, any such objection or objections to the transaction of business. Any meeting of the Board of Directors may be held within or without the State of Georgia at such place as may be determined by the person or persons calling the meeting.

3.6 Quorum and Voting of Directors.

- (a) Subject to section 3.6(b), a quorum for the transaction of any business shall be a majority of the directors then in office; provided, however, that if there are less than three members of the Board of Directors then in office (but only with respect to action taken pursuant to section 3.6(b)), all must be present for a quorum. If a quorum is present and except as otherwise specifically provided in the Articles of Incorporation or by these Bylaws, the Board of Directors may act upon a majority vote of the directors present at the meeting. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of one or more directors, if any action taken is approved by at least a

majority of the required quorum for that meeting. If any meeting cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a date, time and place that may be then or subsequently determined. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. Every director shall have one vote.

- (b) With respect to the appointment of persons to fill one or more vacancies on the Board of Directors, if the number of remaining directors then in office is greater than or equal to three, the remaining directors then in office may meet to fill the vacancy and to transact any other business that may be brought before the Board of Directors, but only to the extent permitted or not prohibited by the Declaration. If the number of remaining directors then in office is less than three, the remaining directors then in office may meet solely to fill the vacancy in accordance with Section 3.4 notwithstanding the fact that the quorum requirement set forth in Section 3.6(a) may not be met with respect to such meeting; provided, however, that such directors may not transact any other business until there are at least three directors present at such meeting.

3.7 Action by Written Consent. Any action required to be taken at a meeting of the Board of Directors, or any action that may be taken at a meeting of the Board of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by a majority of the directors and filed with the minutes of the proceedings of the Board of Directors. An action by written consent taken solely to fill vacancies on the Board of Directors will be effective if adopted by the vote required by Section 3.4.

3.8 Meeting by Conference Telephone. Members of the Board of Directors or any committee thereof may participate in any meeting of the board or any committee thereof by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

3.9 Committees of the Board. The Board of Directors by resolution adopted by the entire board may designate from among its members one or more committees, which shall have the full power and authority of the Board of Directors, except as limited in these Bylaws; each such committee shall consist of two (2) or more directors, and each such committee, to the extent provided herein or in such resolution, shall have the authority of the Board of Directors. However, no such committee shall have authority to:

- (a) authorize distributions;
- (b) approve or recommend to the Members the dissolution, merger, or the sale, pledge or transfer of all or substantially all of the assets of the Association;

- (c) elect, appoint or remove directors or fill vacancies on the Board or any of its committees; or
- (d) adopt, amend or repeal the Articles of Incorporation or any Bylaw.

Notwithstanding anything herein to the contrary, the Volunteer Committees referenced in Article VIII hereof shall not be deemed to be a ‘Committee’ of the Board of Directors as defined in this Section 3.9.

3.10 Bank Accounts. The directors of the Association may appoint any bank or trust company having its principal office in the United States as fiscal agent of the Association and delegate to such bank or trust company the custody and routine management of the Association' s funds, subject to the direction and supervision of the Board of Directors. The directors may likewise delegate to such a bank or trust company or to an investment manager or advisor the powers and duties to invest and reinvest the Association' s funds subject to the direction and supervision of the directors.

3.11 Compensation; Reimbursement. The directors of the Association shall not be entitled to any compensation for their services. However, directors shall be reimbursed for any and all out-of-pocket expenses incurred personally by such directors; provided, however, that such reimbursement shall be subject to the policies of the Board of Directors as they may exist from time to time with respect to the approval of disbursements of the Association’s funds.

3.12 Attendance of Non-Director Members at Board Meetings.

- (a) All meetings of the Board of Directors shall be open to all Members, but Members who are not directors may not participate in any discussion or deliberation unless expressly authorized by the Board of Directors.
- (b) The Board of Directors may determine to exclude some or all of the non-director Members attending the meeting from such meeting for good reason. ‘Good reason’ shall be deemed to include, without limitation, the discussion of or voting upon any business that involves the particular Member or Members to be excluded, provided that, prior to exclusion, the Member shall be a reasonable opportunity to be heard at the meeting.
- (c) The Board may adjourn a meeting and reconvene in an executive session outside the presence of non-director Members, in order to discuss and vote upon matters that the Board reasonably believes to be of a sensitive or personal nature. The Board may determine whether to inform the non-director Members of the nature of the business to be considered in the executive session.

3.13 Powers and Duties.

- (a) Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the

administration thereof, and, as provided by law, may do all acts and things as are not directed by the Declaration, the Articles of Incorporation or these Bylaws directed to be done and exercised exclusively by the Members. In addition to the duties imposed by the Declaration, the Articles of Incorporation or these Bylaws, the Board of Directors shall have the power to and be responsible for the following, without limitation:

- (i) preparing and adopting an annual budget;
- (ii) levying dues, fees and assessments (and fines and penalties for failure to pay such dues, fines and assessments) and establishing methods for the collection thereof;
- (iii) providing for the maintenance, care and upkeep of all areas which are under the maintenance responsibility of the Association;
- (iv) designating, hiring and dismissing the personnel necessary for the operation of the Association, and, where appropriate or permissible, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by them in the performance of their duties;
- (v) keeping all monies of the Association in a bank depository approved by it, and using the proceeds to administer the Association;
- (vi) opening of bank accounts on behalf of the Association and designating the signatories required, and establishing policies and procedures for the deposit of funds thereto and the disbursement of funds therefrom;
- (vii) making and amending use restrictions, rules and regulations;
- (viii) enforcing by all legal means the provisions of the Declaration, these Bylaws and the rules and regulations adopted by the Board of Directors, and bringing any proceedings instituted on behalf of or against any Owner or Owners concerning the Association;
- (ix) obtaining and carrying insurance against casualties and liabilities, if deemed necessary by the Board of Directors, and paying the premium cost thereof;
- (x) paying the cost of all services rendered to the Association or its Members that are not directly chargeable to the Owners;
- (xi) hiring appropriate accounting, legal and tax advisors as deemed necessary or desirable by the Board of Directors;
- (xii) contracting with any person for the performance of various duties and functions; and

- (xiii) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the members by other provisions of these Bylaws, the Articles of Incorporation or the Declaration.
- (b) Borrowing. The Board of Directors shall be permitted to borrow money for the purpose of maintaining or improving the front end signage, related light and water fixtures and surrounding areas without the approval of the Members, except that approval of the Members shall be required to permit the Association to incur outstanding aggregate indebtedness of any kind in an amount exceeding \$10,000.00.
- (c) Fining. Unless otherwise provided in the Declaration, the Board (acting in its role as the Architectural Control Committee in compliance with the Declaration) shall not impose a fine (not including late charges or reasonable fees) unless and until the following procedure is followed.
 - (i) A written demand to cease and desist from an alleged violation (whether in the form of requiring the alleged violator to do something or to refrain from doing something) shall be served upon the alleged violator specifying the alleged violation, the action required to abate the violation and a reasonable time period during which the violation may be abated without further sanctions, if the violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a fine, if the violation is not a continuing one. The Board of Directors or its designee may demand immediate abatement in such circumstances which, in the Board of Directors' determination, pose a danger to safety or property.
 - (ii) Within 12 months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board of Directors may, upon notice, impose a fine. The notice shall state the nature of the violation and the amount of the fine involved. The notice may also provide the alleged violator with the opportunity to request a hearing to contest the fine in front of the Board of Directors within 10 days of the date of the notice, although failure to so state will not render the notice deficient. If a hearing is requested, it shall be held before the Board of Directors in executive session, and the alleged violator shall be given reasonable opportunity to be heard. The minutes of the meeting shall include a written statement of the results of the hearing.

ARTICLE IV

OFFICERS

4.1 The Association shall not have officers, except that one of the directors shall be elected as Corporate Secretary for purposes of taking and keeping minutes of all meetings of the Board of Directors, keeping and updating the minute book and seal of the Association, executing and delivering all notices, applications or other documents required to be signed by a corporate secretary or an "officer" of the Association and shall perform such other duties and have such other powers as may from time to time be delegated to him or her by the Board of Directors.

4.2 The Corporate Secretary shall not be entitled to any compensation for his or her services. However, the Corporate Secretary shall be reimbursed for any and all out-of-pocket expenses incurred personally by him or her; provided, however, that such reimbursement shall be subject to the policies of the Board of Directors as they may exist from time to time with respect to the approval of disbursements of the Association's funds.

ARTICLE V

CONTRACTS, CHECKS, DEPOSITS AND FUNDS

5.1 The Board of Directors may authorize any Director to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or defined in specific instances.

5.2 All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such Directors and in such manner as shall from time to time be determined by resolution of the Board of Directors.

ARTICLE VI

LIQUIDATION

Upon liquidation or cessation of the activities of the Association, the Board of Directors shall determine by a majority vote of the membership of the Board of Directors the manner in which the property and assets of the Association are to be distributed, in accordance with the Georgia Code.

ARTICLE VII

INDEMNIFICATION

7.1 The Association shall indemnify and hold harmless each person who shall serve at any time hereafter as a director or officer of the Association (including the heirs, executors, administrators or estate of such person) from and against any and all claims and liabilities to which such person shall become subject by reason of his or her having heretofore or hereafter having been a director or officer of the Association, or by reason of any action alleged to have

been heretofore or hereafter taken or omitted by him or her as such director, officer, employee or agent to the full extent permitted under sections 14-3-851 and 14-3-856 of the Georgia Code or any successor provisions of the laws of the State of Georgia, and shall reimburse such person for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability; provided, however, that no such person shall be indemnified against, or be reimbursed for, any expense incurred in connection with any claim or liability arising out of any appropriation of any business opportunity of the Association, any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law, or any transaction from which he or she derived an improper personal benefit.

7.2 The rights accruing to any person under Section 7.1 shall not exclude any other right to which he or she may be lawfully entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case even though not specifically herein provided for. The Association and its directors and officers shall be fully protected in taking any action or making any payment under this Article VII or in refusing to do so in reliance upon the advice of counsel to the Association.

ARTICLE VIII

VOLUNTEER COMMITTEES

8.1 Establishment of Volunteer Committees. The Board of Directors shall have the power to establish one or more Volunteer Committees to assist in the operation of the Association. The Board may change or terminate any of the Volunteer Committees at any time and may establish new Volunteer Committees from time to time.

8.2 Membership. The Volunteer Committees shall not be official committees of the Board of Directors as defined in these Bylaws and section 14-3-825 of the Georgia Code. Each Volunteer Committee must be comprised of two or more Members. No Member may serve on more than one Volunteer Committee without the prior approval of the Board of Directors. No member of the Board of Directors may serve on a Volunteer Committee.

8.3 Purpose and Function of the Volunteer Committees. The Volunteer Committees shall have the purposes and functions as may be determined by one or more resolutions of the Board of Directors.

8.4 Limitation of Authority of Volunteer Committees. Unless otherwise provided by a resolution of the Board of Directors, no member of a Volunteer Committee shall have the authority or power to:

- (a) Bind or purport to bind the Association to any contract, agreement or other obligation, except pursuant to authority expressly delegated by the Board of Directors;

- (b) Sign any check, draft, note or other instrument on behalf of the Association, unless authorized in advance by resolution of the Board of Directors; and
- (c) Take any action that violates or is in conflict with any provision of the Declaration, the Articles of Incorporation, the Bylaws or any resolution of the Board of Directors.

8.5 Leadership of Volunteer Committees. Each Volunteer Committee shall appoint one of its members to serve as Chairperson and another member to serve as Secretary. The Chairperson shall call regular meetings of the Volunteer Committee and shall attend all meetings of the Board of Directors where attendance of the Volunteer Committee Chairpersons are requested. The Secretary shall be responsible for taking written minutes of any meeting of a Volunteer Committee and for submitting a copy of such minutes to the Board of Directors on a regular basis.

8.6 Renewal of Service on Volunteer Committees. Service on a Volunteer Committee shall not be mandatory, and any member thereof may cease to serve thereunder at such member's discretion; provided, however, that the Chairperson of such Volunteer Committee, may, in his or her discretion, establish reasonable attendance or performance policies for continued service to such committee and may in good faith prevent any person from rejoining a Volunteer Committee once that person failed to attend a reasonable number of meetings or to participate in such Volunteer Committee.

ARTICLE IX

AMENDMENT TO BYLAWS

The Board of Directors shall have the power by a majority vote of the directors then in office to alter, amend or repeal the Bylaws or adopt new Bylaws, provided that the Bylaws at no time shall contain any provision inconsistent with law or the Articles of Incorporation.

ARTICLE X

CONFLICTS WITH OTHER PROVISIONS

Should any provision of these Bylaws conflict with or contradict any provision in the Articles of Incorporation or the Declaration, as they may be amended from time to time, then the provisions in such other documents shall govern, and the conflicting provision in these Bylaws shall be null and void and treated as if such provision had been stricken from these Bylaws.