

AMENDED AND RESTATED BYLAWS
OF
WESTCHESTER COMMONS SWIM & TENNIS ASSOCIATION, INC.

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AMENDED AND RESTATED BYLAWS

OF

WESTCHESTER COMMONS SWIM & TENNIS ASSOCIATION, INC.

Article I.

General

Section 1. Applicability. These Amended and Restated Bylaws provide for the self-government of Westchester Commons Swim & Tennis Association, Inc., in accordance with the Georgia Property Owners' Association Act ("Act"), the Articles of Incorporation filed with the Secretary of State and the Declaration of Protective Covenants and Permanent Membership for Westchester Commons, recorded in the Gwinnett County, Georgia land records ("Declaration").

Section 2. Name. The name of the corporation is Westchester Commons Swim & Tennis Association, Inc., ("Association").

Section 3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in Paragraph 2 of the Declaration. The Declaration is incorporated herein by this reference.

Section 4. Membership. The classes of membership are more fully set forth in the Declaration. 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. 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 and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title.

Section 5. Entity Members. In the event a 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 in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Member, which will create a vacancy in any elected or appointed position within the Association in which such person may have been serving, to be filled by the Board.

Section 6. Voting. Each Member shall be entitled to one equally weighted vote, which vote may be cast by the Owner, the Owner's spouse, or by a lawful proxy as provided below. When more than one (1) Person owns such Member Lot, the vote for such Member 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 Member Lot. If only one (1) co-owner attempts to cast the vote for a Member Lot, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Member Lot. In the event of disagreement among co-owners and an attempt by two (2) or more of them to cast such vote, such Persons shall not be recognized and such vote or votes shall not be counted. No Person shall be eligible to vote, either in person or by proxy, or to be elected to the Board, if that Person 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 or if the Person has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the voting rights of a Member have been suspended, that Person shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum or for purposes of amending these Bylaws or the Declaration.

Section 7. Majority. As used in these Bylaws, the term "majority" shall mean those votes, Members, or other group as the context may indicate totaling more than fifty (50%) percent of the total number of eligible votes, Members, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" mean more than fifty (50%) percent of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

Section 8. Purpose. The Association shall have the responsibility of administering the Common Property, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Common Property and performing all of the other acts that may be required to be performed by the Association pursuant to the Act, the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Declaration, 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 of Directors as more particularly set forth below.

Section 9. Status of Members. Those who were members of the Association prior to the passage of the Amended and Restated Bylaws of the Association and who have not become Permanent Members during the enrollment period ending March 31, 2001 (which period may be extended in the sole discretion of the Board of Directors), shall (1) continue to be members of the Association with the rights, duties and privileges as existed prior to the passage of the Amended and Restated Bylaws and shall not be subject to these Bylaws or the Declaration, provided, however, the Membership status and any rights, duties and privileges shall, in any event, terminate as of the effective date of the Declaration and, provided further, that subsequent to the passage of the Amended and Restated Bylaws, such individuals shall have no voting rights within the Association

Article II. Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during October 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 Board Members, or upon written petition of twenty-five (25%) percent of the Owners of Member Lots. 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 Bylaws.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to each 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 Member wishes notice to be given at an address other than his or her Member Lot, the Member shall designate such other address by written notice to the Secretary. The mailing or delivering of a meeting notice as provided in this Section shall constitute proper service of notice.

Section 4. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any Association meeting, either before or after such meeting. Attendance at a meeting by an 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, in person or by proxy at the beginning of the meeting, of Members entitled to cast ten percent (10%) of the eligible 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 Members may be adjourned 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 facsimile transmission to any Board Member or the property manager. Proxies may be revoked only by written notice delivered to the Association, except that the presence in person by the proxy giver 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 Taken Without a Meeting. In the Board's discretion, any action that may be taken by the Association Members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every member entitled to vote on the matter.

(a) Ballot. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot shall: a) indicate the number of responses needed to meet the quorum requirements; b) state the percentage of approvals necessary to approve each matter other than election of directors; and c) specify the time by which a ballot must be received by the corporation in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by written consent shall be valid only when the number of written consents received equals or exceeds the requisite majority of the voting power for such action. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the Members is approved by written consent hereunder, the Board shall issue written notice of such approval to all Members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

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 Bylaws or the Articles of Incorporation.

Article III.
Board of Directors

A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors composed of not less than five (5) nor more than seven (7) persons. Both Recreational and Neighborhood Members may serve on the Board, provided there are at least four (4) Recreational Members or spouses of such Recreational Members on the Board. No Member and his or her spouse or co-Owner may serve on the Board at the same time.

Section 2. Term of Office. Those directors serving on the Effective Date of these Bylaws 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 Association meeting, a quorum being present. Those persons receiving the most votes shall be elected to the number of positions to be filled. All successor directors shall be elected for one (1) year terms and shall hold office until their successors are elected.

Section 3. Removal of Members of the Board of Directors. At any valid regular or special Association meeting, any one or more Board members may be removed with or without cause by a Majority of the Association Members and a successor may then and there be elected to fill the vacancy created. Moreover, any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings or is more than sixty (60) 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 caused by any reason, except the removal of a director by vote of the membership, 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 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 Members. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon Board approval of such expenses. For purposes hereof, reasonable food and beverages purchased for Board meetings shall not be considered compensation.

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 meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at the meeting at which the proposed contract is discussed, but the director must leave the room during the discussion on such matter.

Section 7. Nomination. Nomination for election to the Board shall be made from the floor at the meeting. Nominations also may be made by a nominating committee, if appointed by the Board.

Section 8. Elections. All Association 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. Voting for election of Board members shall be by secret written ballot (unless dispensed by unanimous consent at the meeting at which such voting is conducted).

B. Meetings.

Section 9. Regular Meetings. Regular Board meetings may be held at such time and place as determined by the Board, but at least once every three (3) months. The newly elected Board shall meet within thirty (30) days after each annual Association meeting.

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, by electronic mail ("e-mail") 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 at any time, in writing, may 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. The presence of directors entitled to cast one-half of the votes of the Board 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. Board meetings need not be open to all Members. However, if the Board permits Members to attend Board meetings, then Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. 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. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive 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 to such action. The written consents must describe the action taken and be signed by no fewer than a Majority of the directors. The written consents shall be filed with the minutes of the Board.

C. Powers and Duties.

Section 15. Powers and Duties. 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 Act, 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 these Bylaws, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget, in which there shall be established the contribution of each Member to the Common Expenses;

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

(c) providing for the operation, care, upkeep, and maintenance of the Common Property;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Property, 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. Section 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 reasonable monetary fines;

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

(h) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Common Property in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;

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

(k) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Members;

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

(m) 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, condominium associations, or other associations or corporations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

(n) requiring companies and individuals providing contract services for a fee to provide the Association a certificate of insurance. The certificate must include Commercial General Liability, Commercial Automobile Liability (including hired and non-owned liability) and Workers' Compensation coverage. Landscaping and other contractors that provide services on a regular basis must always provide such certificates.

Section 16. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for

termination of such contract with or without cause and without penalty, upon no more than thirty (30) days written notice, and for a term not in excess of one (1) year.

Section 17. Borrowing. The Board shall be authorized to borrow money for any Association purpose; provided, however, the Board shall obtain Permanent Membership approval in the same manner as provided in Paragraph 7 of the Declaration for special assessments if the total amount of such borrowing exceeds or would exceed ten thousand (\$10,000.00) dollars outstanding debt at any one time.

Section 18. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer, director and committee member against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such person 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, director or committee member, whether or not such person holds such position at the time such expenses are incurred. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such person 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, director or committee member, or former officer, director or committee member, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

D. Committees.

Section 19. Nominating Committee. The Board may, in its discretion, establish a Nominating Committee, which Committee shall be composed of at least three (3) Members appointed by the Board of Directors. Board members may serve as the members of the committee.

Section 20. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize. The President shall appoint the chairperson of each committee.

Section 21. Service on Committees. Any Member may volunteer to serve on any committee. The agenda of each committee shall be established by the Board. Any committee member may be removed with or without cause at any time by the Board of Directors.

Article IV.
Officers

Section 1. Designation. The principal officers of the Association shall be the President, Vice President, Secretary, and Treasurer. The President, Vice President and Secretary must be Board members. 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 Association officers shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the Members and shall hold office at the pleasure of the Board 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 Association 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 Association 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 accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. 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, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

Article V.

Rule Making and Enforcement

Section 1. Authority and Enforcement. The Property shall be used only for those uses and purposes set out in the Declaration. Rule making and enforcement authority is further set forth in the Declaration.

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 and until the Association has sent or delivered written notice to the violator as provided in subsection (a) below. However, compliance with this Section 2 shall not be required for the following: (i) late charges on delinquent assessments, or (ii) suspension of voting rights if a Member is shown on the Association's records to be more than thirty (30) days delinquent in any payment due the Association, in which case suspension of the right to vote and use the Common Property shall be automatic.

(a) Notice. If any provision of the Declaration or Bylaws or any Association rule is violated, the Board shall send the violator written notice identifying the violation and fine(s) and/or suspension(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or the fine(s) and/or

suspension(s) or to request reconsideration of the fine(s) and/or suspensions. Fines and suspensions may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine(s) and/or suspension(s). 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 a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time. Failure to request a timely hearing as provided herein shall result in loss of the right to challenge and request reconsideration of the fines.

Article VI. Miscellaneous

Section 1. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws 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:

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

(d) If to an Occupant of a Member Lot, at the address of the Member Lot occupied; or

(e) If to the Association, the Board 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 these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws 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 Bylaws or the intent of any provision thereof.

Section 4. Gender and Grammar. The use of the masculine gender in these Bylaws 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 shall begin on May 15 and end on May 14 or as may be otherwise set by Board resolution.

Section 6. 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 Members may, by a Majority of all Members' vote, require that the Association accounts be audited as a Common Expense by an independent accountant.

Section 7. Conflicts. The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association. If there are conflicts or inconsistencies between such, then the provisions of the Act, the Georgia Nonprofit Corporation Code (as may be applicable), the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Member with voting rights, by acceptance of a

deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 8. Amendment. Except where a higher vote is required for action under a particular provision of the Declaration or Bylaws, these Bylaws may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the total Members of the Association holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote of the Association. Notice of a meeting, if any, 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 filed in the Gwinnett County, Georgia land records. Any amendment so certified and recorded shall be conclusively presumed to have been duly adopted in accordance with the Declaration and Bylaws. Members whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the amendment requirement.

If legal action is not instituted to challenge the validity of an amendment within one (1) year of the recording of the amendment in the Gwinnett County, Georgia land records, then such amendment shall be presumed to be validly adopted. No action to challenge any such amendment may be brought after such time.

Section 9. Books and Records.

(a) All Members of the Association and any institutional holder of a first Mortgage shall be entitled to inspect the following records at a reasonable time and location specified by the Association, upon written request at least five (5) business days before the date on which the Member wishes to inspect and copy:

(i) its Articles or restated Articles of Incorporation and all amendments to them currently in effect;

(ii) its Bylaws or restated Bylaws and all amendments to them currently in effect;

(iii) resolutions adopted by either its Members or Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of Members or any class or category of members;

(iv) resolutions adopted by either its Members or Board of Directors relating to the characteristics, qualification, rights, limitations, and obligations of Members or any class or category of Members;

(v) the minutes of all meetings of Members and records of all actions approved by the members for the past three (3) years;

(vi) all written communications to Members generally within the past three (3) years, including the financial statements furnished for the past three (3) years;

(vii) a list of the names and business or home addresses of its current directors and officers;
and

(viii) its most recent annual report delivered to the Secretary of State.

(b) A Member may inspect and copy the following records upon written notice at least five (5) business days before the date on which the member wishes to inspect and copy only if the Member's demand is made in good faith and for a proper purpose that is reasonably relevant to the Member's legitimate interest as a Member; the member describes with reasonable particularity the purpose and the records the member desires to inspect; the records are directly connected with this purpose; and the records are to be used only for the stated purpose:

(i) excerpts from minutes of any Board meeting, records of any action of a committee of the Board while acting in place of the Board on behalf of the Association, minutes of any meeting of the Members, and records of action taken by the Members or the Board without a meeting, to the extent not subject to inspection under subsection 9(a);

(ii) accounting records of the Association; and

(iii) the membership list only if for a purpose related to the Member's interest as a Member. Without the consent of the Board, a membership list or any part thereof may not be: used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held by the Association; used for any commercial purpose; or sold to or purchased by any person.

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

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CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Westchester Commons Swim & Tennis Association, Inc., a Georgia corporation;

That the foregoing Bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors and the Members of the Association on the ____ day of _____, _____.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this ____ day of _____, _____.

WESTCHESTER COMMONS SWIM & TENNIS
ASSOCIATION, INC.

Secretary (Seal)

[CORPORATE SEAL]