

STATE OF GEORGIA  
COUNTY OF COBB

Return To:

Michael Rome, Esq.  
Rome & Associates, P.C.  
707 Whitlock Ave., Ste E-15  
Marietta, GA 30064  
(770) 428-6002

*Cross Reference: Deed Book 6830, Page 335.*

ACKNOWLEDGMENT REGARDING PRIOR ADOPTION OF A BYLAW AMENDMENT DEFINING THE TERMS FOR CLASSES OF MEMBERSHIP IN BROOKSTONE III HOMEOWNERS ASSOCIATION, INC.

This Acknowledgment Regarding Prior Adoption of a Bylaw Amendment Defining the Terms for Classes of Membership In Brookstone III Homeowners Association, Inc. ("Acknowledgement") is made on the date hereinafter set forth by the Board of Directors ("Board"), for Brookstone III Homeowners Association, Inc. ("Association").

WITNESSETH:

WHEREAS, on the 8th day of September 1992 that certain Declaration of Covenants, Conditions, Restrictions and Easements for Brookstone III, a Country Club Community was recorded in Deed Book 6830, Page 335 et seq. in the Superior Court Records, Cobb County, Georgia, as amended from time to time ("Covenants").

WHEREAS, Article V of the Covenants provided for two levels of Association membership: Class A mandatory memberships, which applied to all Owners in Brookstone III, and Class B voluntary, recreational memberships. See Sections 5.01 & 5.02.

WHEREAS, Pursuant to Section 5.02, those eligible for Class B membership consisted of: (i) Class A members (owners in Brookstone III); and (ii) owners in Brookstone I. In addition, Section 5.02 provided that Class B membership eligibility would also be subject to any other requirements contained in the Bylaws for the Association.

WHEREAS, Section 5.02 also stated that only Class B members would, "*be entitled to use the recreational facilities, if any, located on the Common Area.*".

WHEREAS, Section 2.4 of the Bylaws provided in part that Class B members had to pay the annual recreation fee as established each year by the Board (in addition to the annual assessment paid by all Class A members) in order to access the Brookstone III amenities.

WHEREAS, on the 24th day of April 2003 that certain Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Brookstone III, a Country Club Community was recorded in Deed Book 13731, Page 5868 et seq. in the Superior Court Records, Cobb County, Georgia ("Covenant Amendment"). A copy of said Covenant Amendment is attached hereto as Exhibit "A", and is hereby incorporated herein.

WHEREAS, the Covenant Amendment deleted the first sentence of Section 5.02, and added in part that...*the Class B membership of all Owners shall automatically expire on the earlier of: (i) April 30<sup>th</sup>, 2003, or (ii) any conveyance of the lot by the Class B member to any person or entity...*

WHEREAS, the Covenant Amendment also deleted the last sentence of Section 5.02, and in its place substituted the following: *The rights of members to use the recreational facilities located on the Common Area are as defined in this Declaration and in Article II of the Bylaws.*

WHEREAS, the Articles of Incorporation for the Association were originally filed with the Georgia Secretary of State on October 6<sup>th</sup>, 1992 (“Articles”) and Article V confirmed the two level of membership into Class A and Class B.

WHEREAS, an amendment to the Articles was recorded on April 29<sup>th</sup>, 2003 (“Articles Amendment”), which deleted Article V in its entirety, and substituted in its place the following: Membership and Voting Rights. Membership and voting rights in the Association shall be as provided under the Declaration and By-Laws. A copy of said Articles Amendment is attached hereto as Exhibit “B”, and hereby incorporated herein.

WHEREAS, the Articles Amendment also stated: *This Amendment was adopted with the approval of the lesser of a majority of the total Association vote or two-thirds of the number of votes cast in person or by proxy at a duly called meeting of the members of the Association or by ballot. There were 254 eligible votes participating in the vote, of which there were 210 votes in favor of the Amendment, (?) votes opposed to the Amendment, and 44 votes abstaining or declining to vote.*

WHEREAS, the Association recently discovered an unexecuted Bylaw amendment, which was never physically incorporated into the Association’s Bylaws, and appears to date back to the Spring of 2003 (“Bylaw Amendment”). A copy of said Bylaw Amendment is attached hereto as Exhibit “C”, and is hereby incorporated herein.

WHEREAS, the Bylaw Amendment makes reference to both the Covenant Amendment and Article Amendment regarding the changes to Class A and Class B memberships, and specifically provides in part; *After March 31, 2003, or the earlier expiration of any Class B membership as applicable, the member shall be authorized to use the recreational facilities only if the member pays the Class A member Recreational Facilities Use Fee; except, however, that, once the member has elected to use the recreational facilities and pay the Recreational Facilities Use Fee in any year, the member shall be obligated to pay the Fee for as long as the owner owns such lot, and the Fee shall constitute an assessment against that Class A member and lot, and a personal obligation of that Class A member, as provided in Article IX of the Declaration.*

WHEREAS, although the existence of the Bylaw Amendment has been unknown for many years, the provisions regarding the status of Class B members after the spring of 2003 are consistent with the understanding and approach taken by the Owners and the Board for several decades, as follows:

- (i) Class B memberships ended in the Spring of 2003;
- (ii) Owners who were Class B members when the Class B memberships ended, did not have to pay the portion of the Class A annual assessment, designated as the recreational fee, until such time as they wished to use the amenities;
- (iii) Once such member paid the annual recreational fee, they were then considered a full Class A mandatory member; and
- (iv) If the prior Class B member did not pay the Class A recreational fee prior to a transfer of their Lot, the new purchaser (and all subsequent owners) would be considered full Class A mandatory member.

WHEREAS, a prior member of the Board for the Association, Jacalynn Adams, who served as Secretary in 2003 and is currently President for the Association, has confirmed that the above was the understanding and intention of the Board in the Spring of 2003, and further that the original of the Bylaw Amendment was in fact executed, but must have become lost through inadvertent error. A copy of the Affidavit of Jackie Adams is attached hereto as Exhibit “D”, and is hereby incorporated herein.

NOW, THEREFORE, based upon all of the above, the Board hereby acknowledges the prior adoption of the Bylaw Amendment attached hereto as Exhibit "D", which was voted on and passed by the Owners at the same time as the Owners' votes on the Covenant Amendment and the Articles Amendment, and also acknowledge that said Bylaw Amendment is in full force and effect since the time it was adopted by the membership.

IN WITNESS WHEREOF, after any required notice, a majority of greater of the Board voted to acknowledge the prior adoption of the Bylaw Amendment, and the terms of said amendment are recognized as part of the Bylaws for the Association.

Brookstone III Homeowners Association, Inc.

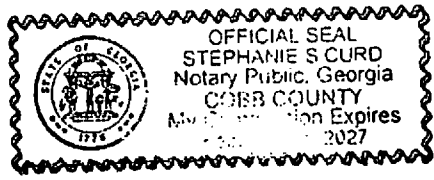
Sworn to, signed and sealed before us  
this 7<sup>th</sup> day of July, 2023

[Signature]  
WITNESS

[Signature]  
NOTARY PUBLIC  
(SEAL)

By: [Signature]  
President

Attested to By: [Signature]  
SECRETARY



**EXHIBIT "A"**  
(2003 Covenant Amendment)

Deed Book 13731 Pg 5868  
Filed and Recorded Apr-24-2003 12:31pm  
2003-0094558

*Jay C. Stephenson*

Jay C. Stephenson  
Clerk of Superior Court Cobb Cty. Ga.

*WJW*  
[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weisman, Nowack, Curry & Wilco, P.C.  
1149 West Peachtree Street, 15<sup>th</sup> Floor  
Atlanta, Georgia 30309  
Attention: JSL

STATE OF GEORGIA  
COUNTY OF COBB

*WJW*  
Cross Reference: Deed Book 6830  
Page 335

**AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
BROOKSTONE III, A COUNTRY CLUB COMMUNITY**

WHEREAS, Willoughby and Sewell Development, Ltd., a Georgia limited partnership, recorded a Declaration of Covenants, Conditions, Restrictions and Easements for Brookstone III, a Country Club Community on September 8, 1992, in Deed Book 6830, Page 335, *et seq.*, Cobb County, Georgia Records, as amended (the "Declaration"); and

WHEREAS, Article XII, Section 12.03 of the Original Declaration of the Declaration provides for amendment of the Declaration with approval of owners of lots in Brookstone III holding a majority of the votes in the Brookstone III Homeowners Association, Inc. ("Association"); and

WHEREAS, owners of lots in Brookstone III holding at least a majority of the votes in the Association desire to amend the Declaration and have approved this amendment; and

WHEREAS, these Amendments do not materially and adversely affect the security title and interest of any Mortgagee on a lot at Brookstone III; provided, however, if a court of competent jurisdiction determines that these Amendments do so without such Mortgagee's consent, then these Amendments shall not be binding on the Mortgagee so involved, unless it consents hereto; and if such consent is not forthcoming, then the provisions of the Declaration effective prior to these Amendments shall control with respect to the affected Mortgagee;

NOW, THEREFORE, the Declaration is hereby amended as follows:

Deed Book 13731 Pg 5869  
Jay C. Stephenson  
Clerk of Superior Court Cobb Cty. Ga.

1.

Article V, Section 5.02 of the Declaration is hereby amended by deleting the first sentence thereof in its entirety and substituting the following therefor:

As provided in the By-Laws, certain Owners are Class B members of the Association at the time of the recording of this Amendment in the Cobb County, Georgia land records (the "Effective Date"). However, except for the Developer as to any Lots owned by it, the Class B membership of all Owners shall automatically expire on the earlier of: (1) ~~August 21, 2003~~ <sup>April 21, 2003</sup>, or (2) any conveyance of the lot by the Class B member to any person or entity. After the Effective Date, no new Class B memberships shall be issued or granted by the Association to any Owner, other than to the Developer for Lots owned by it.

2.

Article V, Section 5.02 of the Declaration is hereby further amended by deleting the last sentence thereof in its entirety and substituting the following therefor:

The rights of members to use the recreational facilities located on the Common Area are as defined in this Declaration and in Article II of the By-Laws.

IN WITNESS WHEREOF, the undersigned officers of Brookstone III Homeowners Association, Inc., hereby certify that the above amendment to the Declaration was duly adopted by the required majority of the Association and its membership.

This 18<sup>th</sup> day of April, 2003.

Sworn to and subscribed to before me this 18<sup>th</sup> day of April, 2003.

Kathy G. Griffin  
Witness

Christine Marie Polk  
Notary Public

[Notary Seal]

JSL-259443 (54216)



BROOKSTONE III HOMEOWNERS ASSOCIATION, INC.

By: [Signature] (Seal)  
President

Attest: [Signature] (Seal)  
Signature/Title

[Corporate Seal]

Notary Public, Cobb County, Georgia  
My Commission Expires January 25, 2006

**EXHIBIT "B"**  
**(2003 Articles Amendment)**

Secretary of State  
Corporations Division  
315 West Tower  
#2 Martin Luther King, Jr. Dr.  
Atlanta, Georgia 30334-1530

DOCKET NUMBER : 031290495  
CONTROL NUMBER: K219942  
EFFECTIVE DATE: 04/29/2003  
REFERENCE : 0048  
PRINT DATE : 05/09/2003  
FORM NUMBER : 111

KAROL L. MARTIN  
WEISSMAN, NOWACK CURRY & WILCO  
3500 LENOX ROAD, 4TH FLOOR  
ATLANTA, GA 30326

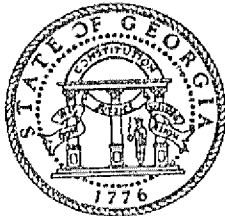
CERTIFICATE OF AMENDMENT

I, Cathy Cox, the Secretary of State and the Corporations Commissioner of the State of Georgia, do hereby certify under the seal of my office that

BROOKSTONE III HOMEOWNERS ASSOCIATION, INC.  
A DOMESTIC NONPROFIT CORPORATION

has filed articles of amendment in the Office of the Secretary of State and has paid the required fees as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said articles of amendment.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on the date set forth above.



*Cathy Cox*  
Cathy Cox  
Secretary of State



K219942  
31290495

STATE OF GEORGIA  
COUNTY OF COBB

ARTICLES OF AMENDMENT FOR  
BROOKSTONE III HOMEOWNERS ASSOCIATION, INC.

1.

Brookstone III Homeowners Association, Inc. ("Association"), is amending its Articles of Incorporation for the purpose of clarifying and modifying membership provisions.

2.

This Amendment was adopted with the approval of the lesser of a majority of the total Association vote or two-thirds of the number of votes cast in person or by proxy at a duly called meeting of the members of the Association or by ballot. There were 254 eligible votes participating in the vote, of which there were 210 votes in favor of the Amendment, votes opposed to the Amendment, and 44 votes abstaining or declining to vote.

3.

Article V of the Articles of Incorporation is hereby amended by deleting that Article in its entirety and substituting the following therefor:

Membership and Voting Rights. Membership and voting rights in the Association shall be as provided under the Declaration and By-Laws.

IN WITNESS WHEREOF, the Association has caused the Amendment to be executed by its duly authorized officers.

This 18<sup>th</sup> day of APRIL, 2003.

BROOKSTONE III HOMEOWNERS  
ASSOCIATION, INC.

By: [Signature] (Seal)  
President

Attest: [Signature] (Seal)  
Secretary

[Corporate Seal]

SECRETARY OF STATE  
2003 APR 29 A 10:17  
CORPORATIONS DIVISION  
JSL:259325 (5428)

**EXHIBIT "C"**  
(2003 Bylaw Amendment)

STATE OF GEORGIA  
COUNTY OF COBB

**AMENDMENT TO THE BY-LAWS**  
**OF**  
**BROOKSTONE III HOMEOWNERS ASSOCIATION, INC.**

WHEREAS, Article X of the By-Laws of Brookstone III Homeowners Association, Inc. ("By-Laws") provide for amendment of the By-Laws by the Board of Directors of the Brookstone III Homeowners Association, Inc. ("Association"), as long as such amendment does not conflict with the Declaration of Covenants, Conditions, Restrictions and Easements for Brookstone III, a Country Club ("Declaration"); and

WHEREAS, the Declaration and By-Laws are being amended for the purposes set forth herein;  
and

WHEREAS, these Amendments to the By-Laws have been approved by the Board of Directors, by owners holding at least a majority of the votes in the Association, and by the developer under the Declaration and By-Laws, Willoughby and Sewell Development, Ltd.; and

WHEREAS, Article XII, Section 12.03 of the Declaration provides for amendment of the Declaration with approval of owners of lots in Brookstone III holding a majority of the votes in the Association, and the Declaration has been amended to conform to the provisions hereof; and

WHEREAS, Article IX of the Association's Articles of Incorporation provides for amendment of the Articles in accordance with the provisions of the Georgia Nonprofit Corporation Code, and the Articles of Incorporation have been amended to conform the Articles to the provisions hereof with the approval of the lesser of a majority of the Association vote or two-thirds (2/3) of the votes cast by Association members in person or by proxy at a duly called meeting, or by ballot; and

WHEREAS, these Amendments do not eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to any mortgagee on a lot at Brookstone III; provided, however, if a court of competent jurisdiction determines that these Amendments do so without such mortgagee's consent, then these Amendments shall not be binding on the mortgagee so involved, unless it consents hereto; and if such consent is not forthcoming, then the provisions of the Declaration and By-Laws effective prior to these Amendments shall control with respect to the affected mortgagee;

NOW, THEREFORE, the By-Laws are hereby amended as follows:

1.

**Article II, Section 2.1 of the By-Laws is hereby amended by adding the following to the end thereof:**

Except for lots owned by the Developer, no new Class B memberships shall be offered or provided to any lot owner at Brookstone III after the approval of this Amendment to the By-Laws and the recording of a companion Amendment to the Declaration in the Cobb County, Georgia land records (the "Effective Date" hereof).

Those Brookstone III lot owners, other than the Developer, who are Class B members in good standing upon the Effective Date may continue as Class B members until the earlier of: (1) March 31, 2003, or (2) any conveyance of the lot by the Class B member to any

person or entity. Upon the happening of either of these events, Class B membership shall automatically expire as to that lot. Thereafter, Class B membership will no longer be available to that member or any subsequent owner of that lot.

The intent hereof is, by March 31, 2003, to eliminate all Class B membership in the Association for all Brookstone III lot owners, except for lots owned by the Developer.

2.

**Article II, Section 2.2 of the By-Laws is hereby amended by deleting the last sentence thereof in its entirety.**

3.

**Article II, Section 2.3 of the By-Laws is hereby amended by deleting the phrase “(i) any person who is a Class A member pursuant to Section 2.2 above” therefrom and substituting “any person who, on the Effective Date hereof, is a Class A member pursuant to Section 2.2 above” therefor, and, further, by adding the following to the end thereof:**

Notwithstanding the above, no Class B membership shall be issued or granted to any Brookstone III lot owner after the Effective Date hereof, other than the Developer for any lots owned by it, and except as provided in Section 2.1 above.

4.

**Article II, Section 2.6 of the By-Laws is hereby amended by deleting the second sentence of that Section in its entirety and substituting the following therefor:**

Subject to Section 2.1 above, Class B membership when authorized hereunder shall continue only so long as such member continues to meet the eligibility requirements set forth in Section 2.3 above, and pays the annual dues or fee prescribed by the Board for admission pursuant to Section 2.4 above.

5.

**Article II of the By-Laws is hereby amended by adding the following Section 2.10 thereto:**

**2.10 Use of Recreational Facilities by Class A Members.** Class A Members shall be authorized to use the recreational facilities located on the Association’s Common Area only as follows:

- (a) **Class A Member After the Effective Date.** Any person who becomes a Class A member after the Effective Date shall be authorized to use all Association recreational facilities, and, in addition to annual assessments levied under the Declaration, such member shall be assessed and shall pay a Class A member recreational facilities use fee (the “Recreational Facilities Use Fee”) levied each year by the Board pursuant to Article IX of the Declaration. Such Fee shall constitute an assessment against that Class A member and lot, and a personal obligation of that Class A member, as provided in Article IX of the Declaration.
- (b) **Class A Member On the Effective Date.** Any person who is a Class A member, but not a Class B member, on the Effective Date, shall have no right or privilege to use the Association’s recreational facilities until after March 31, 2003. Any person who is

both a Class A member and Class B member on the Effective Date shall be authorized to continue to use the Association's recreational facilities as a Class B member until such Class B membership expires under Section 2.1 above.

After March 31, 2003, or the earlier expiration of any Class B membership as applicable, the member shall be authorized to use the recreational facilities only if the member pays the Class A member Recreational Facilities Use Fee; except, however, that, once the member has elected to use the recreational facilities and pay the Recreational Facilities Use Fee in any year, the member shall be obligated to pay the Fee for as long as the owner owns such lot, and the Fee shall constitute an assessment against that Class A member and lot, and a personal obligation of that Class A member, as provided in Article IX of the Declaration.

6.

Article III of the By-Laws is hereby amended by deleting that Article in its entirety.

7.

Article X, Section 10.3 of the By-Laws is hereby amended by deleting the last sentence thereof in its entirety.

IN WITNESS WHEREOF, the undersigned officers of Brookstone III Homeowners Association, Inc., hereby certify that the above amendment to the By-Laws was duly adopted by the required majority of the Association and its membership.

This \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Sworn to and subscribed to before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

[Notary Seal]

JSL:259310 (5428)

**BROOKSTONE III HOMEOWNERS ASSOCIATION, INC.**

By: \_\_\_\_\_(Seal)  
President

Attest: \_\_\_\_\_(Seal)  
Signature/Title

[Corporate Seal]

**EXHIBIT "D"**

(Affidavit of Jacalynn Adams)

STATE OF GEORGIA  
COUNTY OF COBB

**AFFIDAVIT OF JACALYNN ADAMS, BROOKSTONE III BOARD MEMBER**

Personally appeared before me, the undersigned officer duly authorized by law to administer oaths, Jacalynn Adams, who, after being duly sworn, states on oath of her own personal knowledge the following:

1.

I, Jacalynn Adams, am above the age of twenty-one years, am competent to testify as to the statements contained herein, and make these statements based upon my personal knowledge. I authorize the use of this affidavit for all purposes allowed by Georgia law.

2.

I currently serve as the President of the Board of Directors ("Board") FOR Brookstone III Homeowners Association, Inc. ("Association").

3.

In the spring of 2003, I served as Secretary on the Board for the Association.

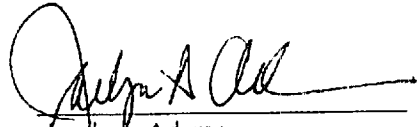
4.

In the spring of 2003, the Association members voted to adopt an amendment to the covenants, incorporated articles, and the Bylaws. It was the intention of the Board at the time to incorporate all amendments into the governing documents for the Brookstone III subdivision, including the Bylaw Amendment, a copy of which is attached hereto as Exhibit "C".

5.

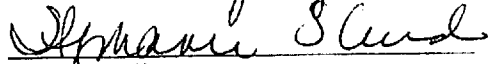
All amendments were executed by the Board, including the amended By-Laws. However, through inadvertent error, the Bylaw Amendment was lost.

FURTHER AFFIANT SAYETH NOT.

  
Jacalynn Adams  
President, Brookstone III HOA

Sworn to and subscribed before me,

this 17<sup>th</sup> day of July, 2023

  
Notary Public

