

Return to: NowackHoward, LLC
Resurgens Plaza, Suite 1250 945
East Paces Ferry Road Atlanta,
Georgia 30326
Attention:RFD

STATE OF GEORGIA

Cross Reference: Deed Book 8847

Page 247

COUNTY OF FULTON

Deed Book 28384

Page 337

**AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR NORTH FARM AND TO THE BYLAWS OF THE
NORTH FARM HOMEOWNERS ASSOCIATION, INC.**

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for North Farm was recorded on January 14, 2000, in Deed Book 28384, Page 337, et seq., Fulton County, Georgia, records ("Declaration"); and

WHEREAS, Article XI, Section 11.01, of the Declaration provides for amendment of the Declaration by the affirmative vote, written consent, or any combination of affirmative vote or written consent of the members of the Association holding at least sixty-six and two-thirds (66 & 2/3%) percent of the total eligible vote thereof; and

WHEREAS, the Bylaws of the North Farm Homeowners Association, Inc., were recorded immediately following the Declaration; and

WHEREAS, Article VII, Section 7.04 of the Bylaws provide that they may be amended at a regular or special meeting of the members duly called and held for such purpose, pursuant to a resolution of the Board of Directors adopting such proposed amendment approved by the Owners to which at least two-thirds (2/3) of the votes which the Owners present at such meeting are entitled to cast; and

WHEREAS, the Georgia Nonprofit Corporations Code provides that any action that may be taken at any membership meeting may be taken outside a meeting by written ballot in compliance with O.C.G.A. 14-3-708; and

WHEREAS, at least sixty-six and two-thirds (66 & 2/3%) percent of the total eligible vote of the Association have voted in favor of this Amendment to the Declaration using a written ballot outside a meeting; and

WHEREAS, Owners representing at least two-thirds (2/3) of the votes returned approved the Amendment to the Bylaws using a written ballot outside a meeting: and

WHEREAS, this Amendment does not alter, modify, change or rescind any right, title, interest or privilege held by the holder of any mortgage on a Lot; provided, however, in the event a court of competent jurisdiction determines that this amendment does alter, modify, change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holder's consent in writing to this amendment, then this amendment shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this amendment shall control with respect to the affected mortgage holder; and

WHEREAS, this Amendment shall be effective on the date that it is recorded in the Fulton County, Georgia land records (the "Effective Date");

NOW THEREFORE, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for North Farm and the Association's Bylaws are hereby amended as follows:

1.

Article VIII of the Declaration is hereby amended by deleting therefrom, in its entirety, Section 8.06 thereof, and substituting therefor the following new Section 8.06:

8.06 Limitation on Expenditures for Construction of Recreational Facilities. Notwithstanding anything to the contrary herein or in the Bylaws, the Board of Directors shall not expend nor commit to expend more than Twenty-five Thousand Dollars (\$25,000) for the purpose of construction of any new building or new recreational facility or any expansion of a current building or recreational facility on the Common Area without first obtaining the prior approval of a majority of the total eligible Association vote.

2.

Article VIII, Section 8.08 of the Declaration is hereby amended by adding the following to the end thereof:

In addition to all other remedies for nonpayment set forth herein, if assessments, fines or other charges, or any part thereof, remain unpaid more than thirty (30) days after such assessment or charge first become delinquent, then notwithstanding anything to the contrary provided herein and without the necessity of compliance with the fining and suspension procedure set forth in Section 10.03, Owner's right to vote and use the Common Area shall be automatically suspended until all amounts owed are paid in full, (provided, however, the Board may not deny ingress or egress to or from a Lot).

3.

Article IX of the Declaration is hereby amended by adding thereto the following new Section 9.14:

9.14 Transient Use. No transient tenants or occupants shall be accommodated in a Lot, and no Lot shall be occupied or otherwise used for transient or hotel purposes or as a short-term rental (rental of less than 30 consecutive days). For purposes of clarification, the occupancy of a Lot or any part thereof by any person for any period of time arranged through use of "AirBnB", "VRBO", "HomeAway", "Flipkey", "Couchsurfing", "Booking.com" or similar websites or online platforms on which property owners offer properties and/or rooms for short-term rentals, stays and/or occupancy is considered transient purposes and is prohibited.

4.
Article XI, of the Declaration is hereby amended by adding to the end thereof the following new Section 11.09:

11.09 SECURITY: THE ASSOCIATION MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE THE SECURITY OF THE DEVELOPMENT; HOWEVER, EACH OWNER, FOR HIMSELF, HERSELF OR ITSELF, AND HIS, HER OR ITS TENANTS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION IS NOT A PROVIDER OF SECURITY AND SHALL HAVE NO DUTY TO PROVIDE SECURITY ON OR AT THE DEVELOPMENT. THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON- OCCUPANTS WILL NOT GAIN ACCESS TO THE DEVELOPMENT AND COMMIT CRIMINAL ACTS ON THE DEVELOPMENT NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE DEVELOPMENT WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS, HER OR ITS PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF ITS FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF MEASURES UNDERTAKEN.

5.

Article XI, of the Declaration is hereby amended by adding to the end thereof the following new Section 11.10:

11.10 Electronic Records, Notices and Signatures. Notwithstanding any other portion of this Declaration, records, signatures and notices (including required attachments) shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the By-Laws shall govern the giving of all notices required by this Declaration.

6.

Article II of the Bylaws is hereby amended by deleting therefrom, in its entirety, Section 2.03 and substituting therefore the following new Section 2.03:

2.03 Suspension of Voting Rights. If a Lot is shown on the Association's books and records to be more than 30 days past due in any assessment of charge owed to the Association, or if the Lot Owner's voting rights are currently suspended for the infraction of any provision of the Declaration, Bylaws or Rules and Regulations, neither the Owner of such Lot nor his or her spouse shall be eligible to: (1) vote, either in person or by proxy; (2) act as proxy for any other Owner; (3) issue a written ballot or written consent; (4) be elected to the Board of Directors; or (5) vote as a Director (if serving on the Board of Directors). In establishing the total number of eligible votes for a quorum, a majority, or any other purposes, such Lot shall not be counted as an eligible vote.

7.

Article III, Section 3.04 of the Bylaws is hereby amended by deleting therefrom the phrase "delivered personally" and substituting therefore the phrase "delivered personally, by e-mail"

8.

Article IV, Section 4.11 of the Bylaws is amended by deleting therefrom the word "telegraph" and substituting therefore the word "e-mail".

9.

Article VII of the Bylaws is amended by adding the following new Section 7.09 to the end thereof:

7.09. Notices.

(a) **Method of Giving Notice.** Unless otherwise prohibited in these Bylaws or the Declaration, all notices, demands, bills, statements, or other communications given under the Declaration or these Bylaws shall be in writing and shall be given by:

- (i) Personal delivery to the addressee;
- (ii) United States mail, postage prepaid;
- (iii) Statutory Overnight Delivery;
- (iv) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message; or
- (v) Electronic mail to the address provided by the Owner.

(b) **Addressee.** Notice sent by one of the methods described in subparagraph (a) above shall be deemed to have been duly given:

- (i) If to an Owner, at the address, electronic mail address or facsimile number which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Lot of such Owner;
- (ii) If to an Occupant, at the address, electronic mail address or facsimile number which the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Lot occupied; or
- (iii) If to the Association, the Board or the managing agent, at the postal address of 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. The Secretary shall promptly provide notice to all Owners of any such change in address. Provided, however, that notwithstanding anything to the contrary provided herein, the Association may only be obligated to accept from a member consents, requests, demands, or notices given and delivered under these Bylaws to an officer or agent of the corporation by electronic transmission only if provided by resolution of the Board of Directors of the corporation.

(c) **Effective Date.** Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

- (i) if sent by United States mail correctly addressed with first class or higher priority postage prepaid, when deposited with the United States Postal Service;
- (ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery or as indicated in a record by the delivery person;
- (iii) if sent by electronic mail, upon transmission to an e-mail address at which the Owner has consented to receive notices;
- (iv) if by any other form of electronic transmission, when transmitted to the member.

(d) **Electronic Notices.** Without limiting the manner by which notice otherwise may be given effectively to members, any notice to members given by the Association under these Bylaws or the Declaration shall be effective if given by a form of electronic transmission consented to by the member to whom the notice is given. For purposes hereof, a member's written provision of an e-mail address for such member to the Association's Secretary or property manager constitutes such member's consent to receipt of notices from the Association to such e-mail address.

Any such consent shall be revocable by the member by written notice to the Association. Any such consent shall be deemed revoked if:

(i) The Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and

(ii) Such inability becomes known to the secretary or to the property manager or other person responsible for the giving of such notice; provided, however, that the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

IN WITNESS WHEREOF, the undersigned officers of North Farm Homeowners Association, Inc. hereby certify that the above amendment to the Declaration and Bylaws was duly adopted by the required majority of the Association members.

This 4 day of JUNE, 2021.

NORTH FARM
HOMEOWNERS ASSOCIATION, INC.

By: _____
President

Attest: _____
Secretary

Sworn to and subscribed
to before me this 4th
day of June 2021.

Witness

Nicole L. Hall
Notary

[NOTARY SEAL]

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