

After recording, please return to:  
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CROSS REFERENCE: Deed Book: 57789  
Page: 286

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**AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR FOXHAVEN**

THIS AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR FOXHAVEN ("Amendment") is made this 2nd day of September, 2021 by **FOXHAVEN HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter called the "Association").

**W I T N E S S E T H:**

**WHEREAS**, Calatlantic Group, Inc., a Delaware corporation, as "Declarant," executed that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Foxhaven, which was recorded on August 3, 2017 in Deed Book 57789, Page 286, *et seq.*, Fulton County, Georgia land records; (hereinafter as further supplemented and/or amended from time to time, hereinafter referred to as the "Declaration"); and

**WHEREAS**, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the Declaration to have the power and authority set forth therein; and

**WHEREAS**, pursuant to Article 10, Section 10.6(c) of the Declaration, the Declaration may be amended upon the affirmative vote or written consent or any combination thereof of Owners of at least two-thirds (2/3) of the Lots and the consent of Declarant; and

**WHEREAS**, Calatlantic terminated all of its rights under the Declaration pursuant to that certain Termination of Rights of Declarant Under the Declaration of Protective Covenants,

Conditions, Restrictions and Easements for Foxhaven which was recorded on January 20, 2021, in Deed Book 63003, page 138, *et seq.*, Fulton County, Georgia records; and

**WHEREAS**, Owners of at least two-thirds (2/3) of the Lots agreed to amend the Declaration as provided herein;

**WHEREAS**, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement states unequivocally that: (a) Owners of at least two-thirds (2/3) of the Lots in the Community agreed to the foregoing Amendment; (b) the consent of the Owners of at least two-thirds (2/3) of the Lots was lawfully obtained; and (c) that any notices required under the Declaration, Bylaws, the Articles of Incorporation and Georgia law were given;

**NOW THEREFORE**, the undersigned hereby adopt this Amendment to the Declaration of Protective Covenants, Conditions, Restrictions, and Easements for Foxhaven, hereby declaring that all of the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject of the Declaration, amended as follows:

1.

The Declaration is hereby amended by deleting Article 5, Section 5.1, entitled "Association's Maintenance Responsibility", in its entirety and replacing it with a new Article 5, Section 5.1 to read as follows:

5.1 Association's Maintenance Responsibility. The Association shall maintain and keep in good repair the Common Property, which shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated thereon. The Association shall also maintain (whether or not constituting Common Property): (a) all Community entry features, including, without limitation, any landscaping associated therewith and any irrigation system and/or lighting system which provides water and/or electricity to such entry features and landscaping, regardless of whether such entry features and landscaping are located on a Lot, Common Property or public right-of-way; (b) all Community green space and open space, including, without limitation, that certain undistributed tree save area located along the northern boundary of the Community, as the same is more particularly identified on a recorded subdivision plat for the Community; (c) the storm water detention/retention ponds and storm water drainage facilities serving the Community, and any wall, gate, fence or other enclosure surrounding said storm water detention/retention pond(s), regardless of whether such storm water detention/retention ponds and storm water drainage facilities are located on a Lot or Common Property; provided, however, the Association shall not be responsible for the maintenance, repair and replacement of any storm water drainage facilities which exclusively serve a Lot; (d) landscaping along any public streets and street medians and street islands

located within or along public right-of-ways in the Community, if and to the extent the same are not maintained on an ongoing basis by a governmental entity or third party; (e) the centralized mailbox area and the mailboxes located thereon; (f) exterior lighting serving the Community; provided, however, each Owner of a Lot shall be responsible for the maintenance, repair and replacement of any exterior lighting exclusively serving a Lot or attached to the residential dwelling located on the Lot; (g) any fencing located on Common Property; (h) that certain five foot (5') walking path and access easement, as shown on the recorded subdivision plat for the Community; and (i) landscaping and lawn maintenance as provided in Section 5.7 herein.

Pursuant to site specific zoning conditions, maintenance to the storm water detention/retention ponds shall include an annual inspection performed by a registered civil engineer. The inspection shall verify that: (a) the storm water detention/retention pond(s) are functioning properly; (b) the ground is stabilized; and (c) that there is no invasive vegetation which impedes the function of the storm water detention/retention ponds.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Lot of such Owner as a specific assessment. All maintenance performed by the Association shall be consistent with the Community-Wide Standard.

The Association shall have the right, but not the obligation, to maintain property it does not own, regardless of whether such property is located within or outside of the Community, where the Board has determined that such action would benefit the Owners. The Board of Directors, without a vote of the members, shall also have the right to enter into easement and covenant to share cost agreements where the Board has determined that such action would benefit the Owners. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

2.

The Declaration is hereby amended by deleting Article 5, Section 5.2, entitled "Owner's Maintenance Responsibility" in its entirety and replacing it with a new Article 5, Section 5.2 to read as follows:

5.2 Owner's Maintenance Responsibility.

Except for maintenance performed on or to a Lot by the Association pursuant to Section 5.1 and 5.7 hereof, if any, all maintenance of and repair and replacement to the Lot and all structures, landscaping, and other improvements located thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance obligation shall include, without limitation, the following: (i) prompt removal of all litter, trash, refuse, and waste; (ii) keeping improvements and exterior lighting in good repair and working order; (iii) keeping driveways and walkways in good repair; (iv) complying with all governmental health and police requirements; (v) maintaining grading and storm water drainage as originally established on the Lot; (vi) repairing exterior damage to improvements; (vii) maintaining, repairing and replacing the residential dwelling located on the Lot, including, without limitation, periodic painting and pressure washing as needed; (viii) maintaining, repairing and replacing all storm water drainage facilities which exclusively serve the Lot; (ix) maintaining, repairing and replacing all pipes, wires and conduits, including, without limitation, sanitary sewer, electrical and plumbing systems, which exclusively serve the Lot; and (x) maintaining any deck, patio or balcony attached to a residential dwelling, including, the painting, staining and/or sealing of any deck and any maintenance or repairs to structural components to such deck, patio or balcony; and (xi) lawn and landscaping to Lots as provided in Section 5.7(b) hereof.

(b) Failure to Maintain. In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement to be performed. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable period of time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement to the Lot and all costs

associated therewith shall be assessed against the Owner and the Lot of such Owner as a specific assessment. This provision shall not apply to any Lot(s) owned by the Declarant, unless improved with a dwelling and occupied as a residence.

3.

The Declaration is hereby amended by adding a new Article 5, Section 5.7, entitled "Landscaping and Lawn Maintenance to Lots", to the end of Article 5, to read as follows:

5.7 Landscaping and Lawn Maintenance to Lots.

(a) By the Association. As provided in Section 5.1 above, the Association shall provide lawn and landscaping services to Lots which shall include, but not be limited to the following: (i) lawn mowing, edging and weed eating on a regular basis; (ii) leaf removal and management; and (iii) blowing of trash and debris from yards. The Board of Directors may change the level of yard maintenance performed, provided that all Lots are maintained according to the same standard.

(b) By an Owner. Each Owner shall be responsible for all lawn and landscape maintenance to a Lot which is not provided by the Association pursuant to subsection (a) above, which shall include, but not be limited to, the following: (i) tree and shrub pruning; (ii) maintenance and replacement of pine straw and/or mulch; (iii) watering landscaped areas; and (iv) keeping lawn and garden areas generally alive, free of weeds, and attractive. All lawn and landscape maintenance to a Lot shall be performed in a manner consistent with the Community-Wide Standard. Any landscaping improvements approved pursuant to Article 6 hereof and installed by an Owner which are not properly maintained, including, without limitation, dead, diseased, damaged or dying plants, trees and shrubs may, at the sole discretion of the Board and, subject to the notice provisions in Section 5.2(b) hereof, be removed from the Community and all costs associated therewith shall be a specific assessment against the Lot of such Owner.

(c) Fences. Notwithstanding anything to the contrary in this Section 5.7, in the event that a fence is erected or installed on a Lot by Declarant or an Owner pursuant to the provisions of Article 6 hereof, the Association shall continue to maintain the area enclosed by said fence; provided, however, the Owner must allow access through an unlocked gate and no pet shall be present in the area at the time of such maintenance in order for the area enclosed by said fence to be maintained by the Association. In the event that the Lot Owner refuses access to the area enclosed by the fence, the gate is locked or a pet is present in such area at the time that maintenance is performed by the Association or its agents, said Owner shall not be entitled to a reduction in the liability for assessments due in the event the Association is unable to maintain the enclosed property and such

Owner shall be obligated to maintain such area in a manner consistent with the Community-Wide Standard and this Declaration.

4.

Unless otherwise defined herein, the capitalized words used in this Amendment shall have the same meaning as set forth in the Declaration.

5.

This Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Fulton County, Georgia and shall be enforceable against the current Owner of any Lot subject to the Declaration.

6.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Association has caused this Amendment to be executed under seal the day and year first above written.

**ASSOCIATION:**

**FOXHAVEN HOMEOWNERS  
ASSOCIATION, INC.**, a Georgia nonprofit  
corporation

By:  
Print Name:

DIVYA AMARAYIL VIVEKANAND

President

By:  
Print Name:

ALICE CHENG

Secretary

[CORPORATE SEAL]

Signed, sealed and delivered  
in the presence of:

J. Patel  
Witness

[Signature]  
Notary Public

My Commission Expires: 02/18/2024

[AFFIX NOTARY SEAL]

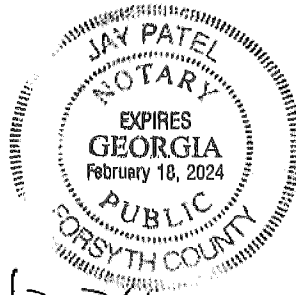


EXHIBIT "A"

President  
Sworn Statement of ~~Secretary~~ of  
Foxhaven Homeowners Association, Inc.

STATE OF GEORGIA

COUNTY OF FULTON

Re: Foxhaven Homeowners Association, Inc.

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the ~~Secretary~~ <sup>President</sup> of Foxhaven Homeowners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his/her own personal knowledge.
3. The foregoing Amendment to the Declaration of Protective Covenants, Conditions, Restrictions, and Easements for Foxhaven was approved by Owners of two-thirds (2/3) of the Lots as provided by law and Section 10.7(c) of the Declaration.
4. The consent of Owners of at least two-thirds (2/3) of the Lots was lawfully obtained.
5. Any notices required by the Declaration, Bylaws, Articles of Incorporation and Georgia law were properly given.
6. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20.

This the 7 day of AUGUST, 2021.

By: DIUYA AMARAYIL VIVEKANAND  
Print Name: \_\_\_\_\_

Sworn to and subscribed before me  
this 7 day of Aug, 2021.

  
Notary Public

My Commission Expires: 02/18/2024

[AFFIX NOTARY SEAL]

