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WAKE COUNTY, NC
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NORTH CAROLINA

AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AUBURN VILLAGE

COUNTY OF WAKE

THIS AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AUBURN VILLAGE is made this 13 day of November, 2024, by the affirmative approval of at least sixty-seven percent (67%) of the Lot Owners in the Auburn Village Homeowners Association, Inc. a North Carolina nonprofit corporation (the "Association").

WITNESSETH:

WHEREAS, Calatlantic Group, Inc, a Delaware corporation ("Declarant") caused to be recorded that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Auburn Village recorded in Book 17473, Page 349 of the Wake County Registry on June 13, 2019, including the First Amendment to Amended And Restated Declaration Of Covenants, Conditions And Restrictions For Auburn Village recorded in Book 17875, Page 536 on May 19, 2020 on as amended and supplemented thereafter, collectively (the "Declaration"); and

WHEREAS, N.C. Gen. Stat. § 47F-3-117(a) provides that a declaration may be amended by the affirmative vote or written agreement signed by owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated, or any larger majority the declaration specifies; and

WHEREAS, pursuant to Article 18, Section 18.10(a) of the Declaration, this Declaration may be amended at any time by the affirmative vote or written consent of sixty-seven percent (67%) of the votes of the Lot Owners in the Association; and

Submitted electronically by "Jordan Price Wall Gray Jones & Carlton"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

WHEREAS, not less than sixty-seven percent (67%) of the Lot Owners within the Association desire to amend the Declaration as set forth below, and have affirmatively voted to approve this Amendment in the ways set forth herein; and

NOW THEREFORE, the undersigned does hereby declare that the Amended And Restated Declaration of Covenants, Conditions And Restrictions For Auburn Village is hereby amended as follows:

1. Section 4.04 of Article 4 of the Declaration is amended by deleting that Section in its entirety and inserting in lieu thereof the following language:

> 4.04. Leasing. It is the intent of this Declaration that all Lots within Auburn Village be primarily owner-occupied. Accordingly, no Lot may be leased except pursuant to the following provisions:
>
> (a) Definitions. For purposes of Section 4.04, the following definitions shall apply: (i) the term "lease" or "leased" shall refer to the regular, exclusive occupancy of a Lot by any person other than the Owner, whether such person is paying rent to the Owner. However, occupancy by an Immediate Family Member of the Owner whether the Owner also occupies the Lot, shall not be deemed a lease; and (ii) the term "Immediate Family Member" shall refer to a spouse or domestic partner of the Owner, or a child, stepchild, grandchild, grand-stepchild or parent or stepparent of the Owner or of the Owner's spouse or domestic partner.
>
> (b) Leasing Cap. No more than five percent (5%) of the total number of Lots within the Subdivision shall be leased (the "Leasing Cap"), at any given time except as stated hereinbelow.
>
> (c) Leasing Permit Procedure. Prior to leasing the Lot, the Owner shall apply in writing to the Board of Directors for a "Leasing Permit." The Board will consider any written requests for a Leasing Permit at the next regularly scheduled Board meeting following the receipt of such request or at least within ten (10) days following receipt of such request and provide a written response following such meeting. Leasing Permits shall be issued for a one (1) year period and shall be renewed for an additional one (1) year period upon request prior to the expiration of the Permit. A Leasing Permit shall not be granted for any subsequent

consecutive year if there are other Owners on the waiting list that desire to lease. If granting the permit would exceed the Leasing Cap then no Leasing Permit shall be issued except in the case of Hardship Permits and Special Permits. To the extent an Owner is granted approval to lease his Lot, no Lot shall be leased, for a period of less than twelve (12) consecutive months.

Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list and shall be issued a Leasing Permit if they so desire when the number of outstanding Leasing Permits falls below the Leasing Cap. In addition to a wait list, the Board shall maintain a list of Lots that are leased, and the terms of the respective leases, for the purpose of determining the number of Lots that are leased at any given time. Owners authorized to lease via Leasing Permits, Hardship Permits and Special Permits shall not enter into any extension or renewal of a lease or new lease without first notifying the Board in writing and providing a copy of the lease and any other information required on rental forms and receiving written approval of the lease from the Board. As such, the Board may enact reasonable rules related to the leasing procedure process, including requiring submission of proof of the individuals who are occupying the Lot including, but not limited to, submission of drivers' licenses, utility bills, and other indicia of occupancy.

(d) Hardship Permits. Under demonstrated hardship conditions, the Board in its sole discretion may waive the leasing cap requirements of subsection (b) and allow a Lot to be rented in excess of the Leasing Cap via a "Hardship Permit". In determining whether hardship conditions have been demonstrated, the Board shall consider: (1) the nature, degree and likely duration of the hardship; (2) the harm, if any, which will result to the community if the Hardship Permit is granted; (3) whether the Owner has been granted a Hardship Permit previously; (4) the Owner's ability to cure the hardship; and (5) the overall number of leased Lots, including via Hardship Permits. Any lease allowed pursuant to a Hardship Permit shall have a term of not more than one (1) year. Owners may thereafter apply for an additional Hardship Permit, but such a permit is not guaranteed. By way of example and not limitation, the following are examples of what may constitute an emergency and undue

hardship: military deployment such that the Owner would be afforded certain protections under the 2003 Service members Civil Relief Act; job loss by the Owner; death in Owner's family necessitating a move from Wake County or any adjoining County in North Carolina; significant illness requiring re-location for treatment or alternative living arrangements by the Owner, and where the Owner dies and the Unit is being administered by his or her estate.

(e) Special Permits. An Owner who has resided in his or her Lot for five (5) years or more may request a Special Permit to lease the Lot if the five percent (5%) Leasing Cap has been met. In that event, the Board shall approve a Special Permit, as long as granting of the Special Permit does not cause the overall number of leased Lots to exceed six percent (6%).

(f) Revocation of Permits. Any Leasing Permit, Hardship Permit or Special Permit shall be automatically revoked if: (1) the Owner fails to lease the Lot within ninety (90) days of the Leasing Permit having been issued; (2) the Owner fails to have the Lot leased for any consecutive 90-day period thereafter; (3) the Owner sells or otherwise conveys the Lot to another person or entity whether voluntarily or involuntarily; or (4) the Owner advises the Board that the Owner no longer wishes to lease the Lot. In the event a permit is revoked or surrendered, permission to lease shall be granted to the next Owner on the waiting list, on a first-come, first-served basis.

(g) Lease Requirements. It is the intent of this Declaration that all leases be for residential purposes, specifically single-family residential purposes. No Lots may be leased for hotel or transient purposes. All lease agreements shall be in writing and shall be for a minimum term of at least twelve (12) consecutive months, and not for short-term habitation (including via programs such as Airbnb, VRBO and similar enterprises). The leasing of anything less than the entire Lot is prohibited. Only the whole Lot may be leased; there shall be no partial leases or room leases.

All lease agreements shall incorporate the requirements of the Declaration, Bylaws and rules and regulations of the

Association, and shall require any lessee to abide by all the obligations set forth in those documents as a condition of the lease agreement. The lease agreement shall state that any failure of a lessee to comply with the terms of such documents shall be a condition of default under the lease. The lease agreement shall contain the following provision: "Tenant shall obey, adhere to and be bound by all provisions of the Amended And Restated Declaration of Covenants, Conditions, And Restrictions For Auburn Village recorded in the Wake County Registry. Tenant acknowledges that he or she has received a copy of such Declaration and the rules and regulations of the Association and is familiar with the provisions of the same." If an Owner fails to include said provision in any lease, it shall be conclusively deemed to be included and part of said lease.

(i) Provision of Documents to Lessees; to Board. Owners are required to provide lessees with a copy of the Declaration, Bylaws, and rules and regulation of the Association, and shall require lessees to sign a statement indicating that they received and reviewed a copy of the Declaration, Bylaws and rules and regulations of the Association. A copy of such statement shall be submitted to the Board along with a copy of the executed lease agreement. A copy of the executed lease agreement shall be filed with the Board within thirty (30) days of the date of signing such lease agreement.

(j) Rules and Regulations. The Board of Directors is authorized to establish reasonable rules and regulations related to the leasing of Lots, including the administration and enforcement of the provisions in this Section.

(k) Enforcement. Any Owner leasing his Lot in violation of this Section 18, or the rules and regulations promulgated hereunder, may be subject to the imposition of fines, assessment of damages or costs, including legal fees incurred by the Association in any enforcement action, and/or injunctive relief. Owners are responsible for their tenants' violations of the restrictions contained in Section 18, as with other restrictions in the Association's governing documents, including any rules and regulations. The enforcement of the restrictions contained in this Section 18, as with other restrictions and rules and regulations of the Association may

be by an action in law or in equity against the Owner, as well as fines and suspension of membership privileges pursuant to N.C.G.S. § 47F-3-107.1.

(l) Delegation. Any Owner who leases their Lot thereby delegates to their tenants the rights of enjoyment of the Common Areas including any common facilities thereon during the lease term. In no event shall any lease agreement release or relive an Owner from the obligation to pay regular or special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease agreement.

(m) Signs. No Owner shall place any "For Rent" or "For Lease" sign or other such similar signs on his or her Lot.

(n) Effective Date; Applicability.

(i) The Leasing Cap requirement described in Subsection (b) shall not apply to a particular Lot until the conveyance of that Lot to a third party that occurs more than sixty (60) days following the recording of this Amendment and shall apply whether such conveyance is voluntary or involuntary.

(ii) All other provisions of this Section shall apply to all Lots, including those, subject to a lease or renewal thereof as of the date of recordation of this Amendment. However, any Lots subject to a lease or renewal thereof, as of the date of recordation of this Amendment shall automatically be granted a Leasing Permit as long as such request is made in writing within sixty (60) days of the date of recording the Amendment. A copy of said lease shall be submitted with the written request.

2. Article 1 of the Declaration is amended by deleting subsection (x) of "Common Expenses" in its entirety and inserting in lieu thereof the following language:

"(x) the costs and expenses associated with the landscaping maintenance for the Lots which the Association is required to maintain under Article 6."

3. Section 6.02 of Article 6 of the Declaration is amended by deleting that section in its entirety and inserting in lieu thereof the following language:

6.02. Attached Lot Maintenance by Association. The Association shall have no maintenance, replacement or repair responsibility related to any Attached Lot, including any exterior maintenance, repairs or replacements to the Attached Lot dwellings or any other improvements, structures, hardscapes, drives, trees, or landscaping on the Attached Lots except as specifically set forth in Section 6.03 hereinbelow.

4. Section 6.04 of Article 6 of the Declaration is amended by deleting that first paragraph of Section 6.04 in its entirety and inserting in lieu thereof the following language:

6.04. Maintenance by Lot Owners. Except as provided in Section 6.03 above, the Association shall have no maintenance, replacement or repair responsibility related to any Lot, including any improvements thereon except as specifically set forth in Section 6.03 hereinabove. Otherwise, all repair, maintenance and replacement of the dwelling on any Lot or improvements, structures, hardscapes, drives, trees or landscaping thereon shall be the responsibility of the Lot Owner. It shall be the responsibility of each Owner to water the grass, plants, trees and landscaping on or immediately adjacent to its Lot in areas that are not otherwise irrigated. In the event an Owner elects to install any landscaping improvements on its Lot, the maintenance of such landscaping improvements shall be the sole responsibility of such Owner.

5. Section 9.01. of Article 9 of the Declaration is amended by deleting any reference to the term, "Attached Lot maintenance assessment" and deleting any reference to the term, "Attached Lot maintenance assessments (as applicable to Attached Lots)" from the first paragraph of Section 9.01 of the Declaration.

6. Section 9.02 of Article 9 of the Declaration is amended by deleting any reference to the term, "Attached Lot maintenance assessment" from Section 9.02 of the Declaration.

7. Section 9.03 of Article 9 of the Declaration is amended by deleting that

Section in its entirety and inserting in lieu thereof the following language:

> 9.03. Use of Assessments. Annual Assessments or Special Assessments paid by Owners shall be used to pay the Common Expenses of the Association. The foregoing is intended as an authorization of the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

8. Subsection (a), including (a)(i) and (a)(ii) of Section 9.05. of the Declaration is amended by deleting that Subsection (a) in its entirety and inserted in lieu thereof the following language:

> 9.05. Annual Assessments. As of the date of recording of this Amendment, the Annual Assessment is $240.00 per Lot; provided, however, that if the first assessment year shall have fewer than twelve (12) months, the foregoing amount shall be proportionately reduced.

9. Section 9.05 of Article 9 of the Declaration is further amended by deleting any reference to the term, "Attached Lot maintenance assessment" and the term, "Attached Lot maintenance assessments" from Section 9.05 in its entirety, including subsections (a) through (f).

10. Section 9.06 of Article 9 of the Declaration regarding Special Assessments is amended by deleting any reference to the term, "Attached Lot maintenance assessment" and deleting subsection (b) and (c) of Section 9.06 in its entirety.

11. Section 9.09 of Article 9 of the Declaration is amended by deleting any reference to the term, "Attached Lot maintenance assessments" from Section 9.09 of the Declaration.

12. Section 9.10 of Article 9 of the Declaration is amended by deleting any reference to the term, Attached Lot maintenance assessments" from Section 9.10 of Article 9 in its entirety.

13. Section 9.13 of Article 9 of the Declaration entitled Operating Expense Contribution is amended by deleting Section 9.13 of the Declaration in its entirety.

14. Section 10.02(a) of Article 10 of the Declaration is amended by deleting the last paragraph of subsection (a) in its entirety. Said paragraph was previously inserted into the Declaration by the First Amendment to the Amended and Restated Declaration.

15. Section 10.03(a) of Article 10 of the Declaration that was previously amended by the First Amendment to the Amended and Restated Declaration is hereby amended by deleting that subsection (a) in its entirety, including (a)(a1) and (a)(a2) and inserting in lieu thereof the following language:

> (a). Common Areas. All insurance policies upon the Common Area shall be purchased by the Association for the benefit of all the Association and the Owners and their mortgagees as their interest may appear, and provisions shall be made for the issuance of mortgagee endorsements to the mortgagees of Owners.

16. Except as amended hereinabove, the remaining portions of the Declaration are and shall remain unchanged and in full effect.

17. This Amendment shall be effective upon recordation in the Office of the Wake County Registry of Deeds.

[SIGNATURE PAGE FOLLOWS]

CERTIFICATION OF VALIDITY OF AMENDMENT

By authority of its Board of Directors, the undersigned President of the Auburn Village Homeowners Association, Inc., hereby certifies that the foregoing instrument has been approved by owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated and is, therefore, a valid amendment to the Amended and Restated Declaration Of Covenants, Conditions and Restrictions for Auburn Village.

AUBURN VILLAGE HOMEOWNERS ASSOCIATION, INC.

By: John B Cranham

President

Attested By: Ewa Agusta

Secretary

STATE OF NORTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF WAKE

I, Ewa J. Agusta, a Notary Public of the County and State aforesaid, certify that John B Cranham, of whose identity I have personal knowledge, personally appeared before me, and acknowledged that the signature on the record presented is his/her signature and that he/she voluntarily executed the foregoing instrument for the purpose stated therein and in the capacity indicated and with full authority to do so.

Witness my hand and official stamp or seal, this 13 day of November, 2024.

Ewa J Agusta

Notary Public

Ewa J. Agusta

Printed Name

My commission expires: 2-27-26

EWA J AGUSTA
NOTARY PUBLIC
My Comm. Exp.
Feb 27, 2026
Johnston County
NORTH CAROLINA