

Tiana P Garner, Clerk of Superior Court
Gwinnett County, GA

ERECORDED
eFile Participant IDs: 4289077774,

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Robert S. Stein, Esq.
Lazega & Johanson, LLC
1510 Ellsworth Industrial Boulevard
Building Two, Suite 20
Atlanta, Georgia 30318

STATE OF GEORGIA
COUNTY OF GWINNETT

Reference: Deed Book: 8076
Page: 126

**SECOND AMENDMENT OF THE DECLARATION OF PROTECTIVE COVENANTS FOR
IVY STATION (and Bylaws)**

WHEREAS, the Declaration of Protective Covenants for Ivy Station was recorded on November 12, 1992 in Deed Book 8076, Page 126, *et seq.*, Gwinnett County Superior Court, land records, as supplemented/modified ("Declaration"); and

WHEREAS, Article XIII, Section 4 of the Declaration provides that the Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent of owners holding at least two-thirds of the total Association vote and a consent of the Declarant as long as Declarant has an option to unilaterally to subject additional property to the Declaration; and

WHEREAS, the Declarant no longer has the unilateral option to subject additional property to the Declaration; and

WHEREAS, the Bylaws of the Ivy Station Community Association, Inc. are recorded as Exhibit "C" to Declaration; and

WHEREAS, the Bylaws may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of members holding at least a majority of the total Association vote but have been amended by the same two-thirds vote/consent as set forth above for the Declaration; and

WHEREAS, the Amendments to the Declaration and the Bylaws have been approved by the two-thirds voting majority as set forth above.

NOW, THEREFORE, the Declaration and Bylaws are amended as follows:

1.

Exhibit "A" is amended by the addition of the following as Section (n):

(n) **"Act"** shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as such Act may be amended from time to time.

2.

Article II of the Declaration is amended by the addition of the following as Section 3:

Section 3. Georgia Property Owners' Association Act. The property submitted to this Declaration ("Submitted Property" or "Community") constitutes a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie, 1982) (Act) , as such Act may be amended from time to time.

3.

Article IV, Section 2 of the Declaration is amended by the addition of the following at the end of such Section:

Notwithstanding anything in this Declaration to the contrary: (1) late charges shall be equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act; and (2) interest shall be at the rate of 10% per annum, or such higher rate as may be authorized by the Act, and shall accrue from the due date.

4.

Article IV, Section 5 of the Declaration is amended by deleting the last sentence of the first paragraph thereof and substituting the following in its place:

Notwithstanding anything in the Declaration to the contrary, the lien provided for herein shall have priority and arise as provided in the Act including but not limited to 44-2-232(a) of the Act.

5.

Article IV, Section 6 of the Declaration is amended by deleting the second sentence of the first paragraph thereof and substituting the following in its place:

Any assessment or installment delinquent for a period of more than ten (10) days shall incur a late charge equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act.

6.

Article IV, Section 6 of the Declaration is further amended by removing the following:

If the assessment is not paid within thirty (30) days, a lien, shall attach and, in addition, the lien shall include the late charge, interest at twelve (12%) percent of the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law.

And substituting the following in its place:

If the assessment is not paid by the due date the automatic lien shall attach and the lien (and personal obligation) shall include the late charge and interest as set forth herein, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law.

7.

Article IV, Section 8 of the Declaration is amended by the addition of the following to the end thereof:

The Association may also specifically assess in accord with Section 44-3-225(a) of the Act.

8.

Article XIII, Section 3 of the Declaration is hereby amended by retaining the first sentence thereof and deleting the remainder of such Section and substituting the following therefor:

This Declaration shall run with and bind the Submitted Property perpetually to the extent provided in the Act.

9.

Article XIII, Section 4 of the Declaration is hereby amended by deleting such Section in its entirety and substituting the following therefor:

Section 4. Amendment. This Declaration may be amended upon the affirmative vote, written consent or any combination thereof of Owners holding 2/3s of the total eligible Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered, shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Gwinnett County, Georgia land records.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration and the Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guideline of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Bylaws, the Articles, and applicable laws.

No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the Bylaws more than one year after the recording thereof in the Gwinnett County, Georgia land records.

10.

The Declaration is further amended by the deletion of Article VI, Section 6 and the addition of the following as Article XIV:

Article XIV Leasing

In order to protect the equity of the individual Owners at the Community, and to carry out the purpose for which the Community was formed by preserving the character of the Community as a homogenous residential community of predominantly owner-occupied homes, leasing of Lots shall be governed by the restrictions imposed by this Article. Except as provided herein, leasing of Lots is prohibited.

A. Definitions

- (i) "Authorized Corporate Occupant" means an officer, director, shareholder, member or employee of an Owner that is a corporation; a manager or member of an Owner that is a limited liability company; a partner of an Owner that is a partnership; or a trustee or beneficiary of an Owner that is a trust; provided

the Owner receives no rent or other consideration for such occupancy. The name of each Authorized Corporate Occupant shall be designated in writing to the Board of Directors and may not be changed more frequently than once every 12 months without the Board's written consent. A person's designation as an Authorized Corporate Occupant shall terminate automatically upon the termination of such person's relationship with the entity holding record title to the Lot.

- (ii) "Grandfathered Owner" means an Owner of a Lot who is lawfully leasing his or her Lot based on the provisions of the Declaration existing on the date this Amendment is recorded in the Gwinnett County, Georgia Records (the "Effective Date"). Any such Grandfathered Owner shall provide a copy of the lease in effect (as of the Effective Date) to the Board of Directors within sixty days of the Effective Date if not already provided prior to the recording of this Amendment. All leases for Grandfathered Lots shall have a minimum initial term of six (6) months. Subparagraphs B and C below shall not apply to a Grandfathered Lot until the termination of Grandfathered Lot status. Grandfathered Owner and Grandfathered Lot status shall automatically terminate on the date the Grandfathered Owner conveys the Grandfathered Lot to any person or entity for consideration in the amount of one hundred (\$100) dollars or more or any transfer of an interest in the entity that owns the Lot for consideration in the amount of one hundred (\$100) dollars or more.
- (iii) "Grandfathered Lot" means the Lot owned by a Grandfathered Owner on the Effective Date hereof. A Lot shall only be grandfathered for so long as the Owner is considered grandfathered under subsection A(ii) above.
- (iv) "Leasing" means the regular, exclusive occupancy of a Lot by any person(s) other than: (1) the Owner or the spouse of an Owner; (2) an Authorized Corporate Occupant; or (3) a cohabitant of an Owner, an Owner's spouse, or an Authorized Corporate Occupant, when the Owner, Owner's spouse, or Authorized Corporate Occupant also occupies the Lot as his or her primary residence.

B. Leasing Permit and Restriction.

No Owner of a Lot may lease his or her Lot unless: (1) the Owner is a Grandfathered Owner, (2) the Owner is not a Grandfathered Owner and has received a written leasing permit from the Board of Directors authorizing leasing, or (3) the Owner is not a Grandfathered Owner but has received a hardship leasing permit from the Board as provided below.

Non-Grandfathered Owners who want to lease their Lots may do so only if they have applied for and received from the Board of Directors either a "leasing permit" or a "hardship leasing permit." Such a permit will allow an Owner to lease his or her Lot, provided that such leasing is in strict accordance with the terms of the permit and this Article XIV. The Board of Directors shall have the authority to establish conditions with respect to the granting of permits as well as with respect to the duration and use of such permits consistent with this Article. All leasing permits and hardship leasing permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor in title).

An Owner's request for a leasing permit shall be approved if: (A) that Owner is not shown on the books and records of the Association to be more than 90 days delinquent on the payment of assessments and other charges; (B) the number of current, outstanding leasing permits issued plus Grandfathered Lots is less than ten percent (10%) of the total Lots in the Community; and (C) the Owner has resided in their Lot for at least one year since ownership of the Lot and has provided reasonable evidence of such to the Association.

Leasing permits shall be valid for a period of two (2) years, after which time such leasing permits will automatically expire. Notwithstanding the foregoing, leasing permits shall be automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Lot to a third-party (excluding sales or transfers to an Owner's spouse); (2) the failure of an Owner to lease his or her Lot within ninety (90) days of the permit having been issued; (3) the failure of an Owner to have his or her Lot leased for any consecutive ninety

(90) day period thereafter; (4) the date that the Owner is shown on the books and records of the Association to be more than 90 days delinquent in the payment of assessments or other charges.

If the number of current leasing permits issued and Grandfathered Lots is more than ten percent (10%) of the total number of Lots, then no additional leasing permits shall be issued (except for hardship leasing permits) until that number falls below ten percent (10%). Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued a permit, if they so desire and qualify, when such number falls below ten percent (10%). The issuance of a hardship leasing permit to an Owner shall not cause the Owner to be removed from the waiting list for a leasing permit.

C. Hardship Leasing Permits.

If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship leasing permits in its sole discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, that will result to the Community if the permit is approved, (3) the number of hardship leasing permits that have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) an Owner dies and the Lot is being administered by his or her estate; or (3) an Owner temporarily relocates out of the metropolitan-Atlanta area and intends to return to reside in the Lot within one (1) year.

Hardship leasing permits shall be valid only as to a specific Owner and Lot and shall not be transferable to other Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor-in-title). Hardship leasing permits shall be valid for a term approved by the Board, not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant.

Hardship leasing permits shall be automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Lot to a third-party (excluding sales or transfers to an Owner's spouse); (2) the failure of an Owner to lease his or her Lot within ninety (90) days of the permit having been issued; (3) the failure of an Owner to have his or her Lot leased for any consecutive ninety (90) day period thereafter; or (4) the date that the Owner is shown on the books and records of the Association to be more than 90 days delinquent in the payment of assessments or other charges.

D. Provisions.

Leasing that is authorized hereunder shall be governed by the following provisions:

(i) Notice. All leases shall be in writing and shall comply with this Declaration and all Association rules and regulations. Leases that do not comply with this Declaration and all Association rules and regulations shall be void. Entering into a lease that does not comply with this Declaration and all Association rules and regulations shall constitute a violation of this Declaration and may result in the imposition of fines and/or other enforcement actions as authorized herein. Beginning as of the Effective Date, at least ten (10) days prior to entering into the lease of a Lot or the renewal or extension of a lease, the Owner shall provide the Board of Directors with: (1) a copy of the proposed lease, the name and address of the proposed occupant(s), and such other information as the Board may reasonably require, and (2) if requested by the Association, an affidavit (or other certification determined by the Board) that Owner has obtained and reviewed Background Information (as defined below) as to the occupant(s). "Background Information" may include such information as determined from time to time by the Board including, but not limited to, criminal background

information and credit history. The purpose of the Background Information is to allow the Owner to better make an informed decision as to the proposed occupant(s). The Board shall solely approve or disapprove the form of said lease; the Board may provide a set of required lease terms/a leasing addendum; the Board shall not approve or disapprove the prospective occupant(s). Subsequent to (and no later than ten (10) days after) the execution of an approved lease, the Owner shall provide the Board with a copy of the executed lease; (1) the occupants' home, work and cellular phone numbers; (2) the Owner's primary (offsite) residence address, home, work and cellular phone numbers and (3) such other information as required by the Board.

(ii) General. Lots may be leased only in their entirety; no rooms or fractions of Lots may be separately leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. With the exception of Grandfathered Owners as to Grandfathered Lots, all leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations.

Notwithstanding anything in the Declaration to the contrary, neither Lots, nor dwellings nor rooms nor other areas within dwellings shall be leased, rented or used for short-term hotel-type use, stay or occupancy, including but not limited to Airbnb, VRBO or similar, except with prior written Board approval (which the Board may withhold in its sole discretion).

(iii) Liability for Assessments; Compliance. Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Compliance with Declaration, Bylaws, and Rules and Regulations. The Owner and lessee shall comply with all provisions of the Declaration, Bylaws and Association rules and shall control the conduct of all other occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any such violation.

If a Lot is leased or occupied in violation of this Article or if the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, the Association's Board of Directors shall be authorized, in addition to all other available remedies, to levy fines against the lessee and/or the Owner, to suspend all voting and/or Common Property use privileges of the Owner, occupants and unauthorized tenant(s), subject to the provisions of this Declaration and the Bylaws.

If a Lot is leased or occupied in violation of this Article, the Association may require the Owner to evict the tenant. If the Owner, lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation, such violation is deemed to be a default under the terms of the lease and shall authorize the Owner or the Association, as more fully described herein, to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney in fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. Alternatively, the Association may require the Owner to evict the violating tenant. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Lot.

(2) Liability for Assessments. When an Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received

from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments for which he, she or it would otherwise be responsible, nor shall it be construed to allow the Owner to continue leasing his, her or its Lot following the automatic revocation of that Owner's leasing permit or hardship leasing permit, pursuant to as outlined in this Article.

(iv) Lease Administration Fee. As the review process of proposed Leasing Permits and Hardship Leasing Permits occasions common expenses by the Association, the Board shall have the authority to require a fee of up to two hundred fifty dollars (\$250.00) as a part of each application for a Leasing or Hardship Permit (whether initial approval or renewal). Said fee shall constitute a specific assessment under this Declaration. If the Permit is not approved, the fee shall be refunded.

10.

Article VI, Section 5 of the Bylaws is hereby amended by deleting such Section in its entirety and substituting the following therefor:

Section 5. Amendment. These Bylaws may be amended upon the affirmative vote, written consent or any combination thereof of Owners holding 2/3 (two-thirds) of the total eligible Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered, shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Gwinnett County, Georgia land records.

IN WITNESS WHEREOF, the undersigned officers of The Ivy Station Community Association, Inc., hereby certify that the above amendments to the Declaration and By-Laws were duly adopted by the referenced 2/3s majority of the Association membership with any required notices properly given.

This 23rd day of June, 2021

THE IVY STATION COMMUNITY
ASSOCIATION, INC.

Sworn to and subscribed to before
me this 23 day of June,
2021.

By: [Signature] (Seal)
President

Attest: C. O'Connell (Seal)
Secretary

[Signature]
Witness

[Signature]
Notary Public

[CORPORATE SEAL]

[NOTARY SEAL]

