

After recording, please return to:  
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CROSS REFERENCE: Deed Book: 14372  
Page: 1060

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**FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR RETREAT AT VICTORY AND BYLAWS OF RETREAT AT VICTORY  
HOMEOWNERS ASSOCIATION, INC.**

THIS FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR RETREAT AT VICTORY AND BYLAWS OF RETREAT AT VICTORY HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as "Amendment") is made this 28th day of August, 2020 by **OHC VICTORY DRIVE, LLC**, a Georgia limited liability company (hereinafter referred to as "Declarant"), **SWH VICTORY LLC**, a Georgia limited liability company ("SWH Victory") and **RETREAT AT VICTORY HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter, the "Association").

WITNESSETH

**WHEREAS**, OHC Victory Drive, LLC, a Georgia limited liability company, as Declarant, executed that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Retreat at Victory, which was recorded July 3, 2019 at Deed Book 14372, Page 1060, *et seq.*, Cherokee County, Georgia land records (hereinafter as supplemented and/or amended from time to time, referred to as the "Declaration"), together with the Bylaws of Retreat at Victory Homeowners Association, Inc., which are attached to the Declaration as Exhibit "C" and recorded therewith (hereinafter, the "Bylaws"); and

**THIS AMENDMENT CHANGES THE NAME OF THE COMMUNITY TO ARTISAN AT VICTORY AND ESTABLISHES RESTRICTIONS ON THE OCCUPANCY OF LOTS AS A 55 YEAR OR OLDER HOUSING COMMUNITY PURSUANT TO THE HOUSING FOR OLDER PERSONS ACT ("HOPA")**

**WHEREAS**, Article 10, Section 10.6(c) of the Declaration provides that the Declaration shall 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 the Declarant; and

**WHEREAS**, Article 6, Section 6.5(c) of the Bylaws provides that the Bylaws may be amended upon the affirmative vote, written consent or any combination of affirmative vote and written consent of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant; and

**WHEREAS**, the Declarant and SWH Victory, as the owners all of the Lots in the Community and the holders of all of the votes in the Association, desire to amend the Declaration as provided herein, as evidenced by the signatures attached hereto and by this reference incorporated herein;

**NOW THEREFORE**, the undersigned hereby adopt this First Amendment to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Retreat at Victory, 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 1, Section 1.1, entitled "Articles of Incorporation," in its entirety and replacing it with a new Section 1.1 to read as follows:

1.1 "Articles of Incorporation" means the Articles of Incorporation of Artisan at Victory Homeowners Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference, as may be amended from time to time.

2.

The Declaration is hereby amended by deleting Article 1, Section 1.2, entitled "Association," in its entirety and replacing it with a new Section 1.2 to read as follows:

1.2 "Association" means Artisan at Victory Homeowners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

3.

The Declaration is hereby amended by deleting Article 1, Section 1.4, entitled "Bylaws," in its entirety and replacing it with a new Section 1.4 to read as follows:

1.3 "Bylaws" means the Bylaws of Artisan at Victory Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference, as may be amended from time to time.

4.

The Declaration is hereby amended by adding a new Article 11, entitled "Age Restricted Community," to the end of the Declaration to read as follows:

Article 11  
Age Restricted Community

11.1 General. In order to protect the equity of the individual Lot Owners and to carry out the purpose for which the Community was formed by preserving the intent that the Lots within the Community be used for the housing of persons fifty-five (55) years of age or older, and to comply with the exemption requirements for an age restricted community pursuant to the Housing for Older Persons Act of 1995 contained in the Fair Housing Act (42 U.S.C. § 3607, *et seq.*) (hereinafter referred to as "HOPA"), occupancy of Lots shall be governed by the restrictions imposed by this Article.

The Board of Directors shall have authority to make and enforce reasonable rules and regulations in order to enforce this Article.

11.2 Restrictions on Occupancy.

(a) General. At least eighty percent (80%) of the Lots in the Community shall be occupied by at least one (1) adult who is fifty-five (55) years of age or older ("Qualifying Occupant")

(b) Occupancy. If a Qualifying Occupant dies, the remaining Occupants of the Lot may continue to occupy the Lot even though they are not fifty-five (55) years of age or older, provided that such remaining Occupants submit a written request to the Board and such continued occupancy would not jeopardize the Community's compliance with the requirements of HOPA and the regulations promulgated thereunder as set forth in subsection (e) hereof.

A Qualifying Occupant may be temporarily absent from the occupied Lot as long as: (i) the Lot is not rented or leased to others; (ii) the Qualifying Occupant returns to the Lot on a periodic basis; and (iii) the Qualifying Occupant remains legally and financially responsible for the upkeep of the Lot.

For purposes of this Article, an occupant shall not be considered a "permanent occupant" unless such occupant considers the Lot to be his or her legal residence and actually resides in the Lot for at least six (6) months during every calendar year.

(c) Minor Children Not Allowed. No Lot shall be occupied by any person under eighteen (18) years of age, except that one (1) person under the age of eighteen (18) may occupy a Lot if the Board of Directors reasonably determines that such occupancy is necessary to provide reasonable accommodation for the health care needs of a disabled or handicapped Occupant who would be unable to continue to reside in the Community without such accommodation. For purposes of this subsection (c) only, a person shall be deemed to be an Occupant of a Lot if he or she stays overnight on the Lot more than twenty-one (21) days in any sixty (60) day period or for more than thirty (30) consecutive days in any twelve (12) month period.

(d) Lease or Sale of Lot. Nothing in this Article is intended to restrict the ownership of or transfer of title to any Lot; provided, no Owner may occupy the Lot unless the requirements of this Article are met nor shall any Owner permit occupancy of the Lot in violation of this Article. Lot Owners shall be responsible for including the statement that the Lots within the Community are intended for the housing of persons fifty-five (55) years of age or older, as provided in this Article, in conspicuous type in the lease or other occupancy agreement and similar language shall be included in the contract of sale relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the tenant or purchaser, as applicable clearly disclosing such intent to any prospective tenant, purchaser or other potential occupant of the Lot. Every lease of a Lot shall provide that the failure to comply with the requirements and restrictions of this Article shall constitute a default under the lease.

(e) Exceptions. Any Owner may request in writing that the Board of Directors make an exception to the requirements of this Article with respect to his or her Lot. The Board of Directors may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the granting of such an exception would not jeopardize compliance of the Community with the requirements for housing intended for older persons under HOPA, if less than twenty percent (20%) of the total occupied Lots in the Community are then currently occupied by persons all of whom are younger than fifty-five (55) years of age.

11.3 Change in Occupancy; Notification. In the event of any change in occupancy of any Lot resulting from a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Lot shall immediately notify the Board in writing and provide to the Board the names and ages of all current Occupants of the Lot and such other information as the Board may reasonably require to

verify the age of each Occupant. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in occupancy occurs, the Association shall be authorized to levy fines and other sanctions against the Owner and the Lot for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the Occupant(s) continue to meet the requirements of this Article, in addition to all other remedies available to the Association under this Declaration and Georgia law.

11.4 Monitoring Compliance; Appointment of Attorney-in-Fact.

(a) The Association shall be responsible for maintaining age records on all Occupants of Lots. The Board shall adopt reasonable policies, procedures and rules to monitor and maintain compliance with this Article, including policies regarding visitors, updating of age records, the granting of exemptions, if any, and enforcement. The Association shall periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their Occupants, tenants and Mortgagees upon reasonable request.

(b) The Association shall have the power and authority to enforce this Article in any legal manner available, as the Board deems appropriate, including, without limitation, conducting a census of the occupants of Lots and requiring copies of birth certificates, drivers licenses or other documents to evidence the age of each Occupant of the Lot to be provided to the Board on a periodic basis. The Association shall also have the right to take action to evict the Occupants of any Lot which does not comply with the requirements and restrictions of this Article. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER LOT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Lot which in the judgment of the Board are reasonably necessary to comply with this Article.

(c) Each Owner shall be responsible for ensuring compliance of the Owner's Lot with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by the Owner and by the Owner's tenants and other Occupant(s) of such Lot. EACH OWNER, BY ACCEPTANCE OF TITLE TO A LOT, AGREES TO INDEMNIFY, DEFEND AND HOLD THE DECLARANT, THE ASSOCIATION AND THEIR RESPECTIVE OFFICERS, AGENTS, REPRESENTATIVES, DIRECTORS OR EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION WHICH MAY ARISE FROM THE FAILURE OF SUCH OWNER'S LOT TO SO COMPLY.

11.5 Amendments to Article 11. The Association, acting through its Board, shall have the power to amend this Article, without the consent of the members or any Person, to make this Article consistent with HOPA, as it may be amended and/or supplemented from time to time, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Article.

5.

The Bylaws are hereby amended by deleting Article 1, Section 1.1, entitled "Name," in its entirety and replacing it with a new Section 1.1 to read as follows:

1.1 Name. The name of the corporation shall be Artisan at Victory Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

6.

The Bylaws are hereby amended by deleting Article 1, Section 1.2, entitled "Membership," in its entirety and replacing it with a new Section 1.2 to read as follows:

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Artisan at Victory (such Declaration, as amended, supplemented, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

7.

Any and all references to "The Retreat at Victory" and "Retreat at Victory Homeowners Association, Inc." are replaced with references to "Artisan at Victory" and "Artisan at Victory Homeowners Association, Inc."

8.

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

9.

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

10.

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

[SIGNATURES BEGIN ON FOLLOWING PAGE]

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

DECLARANT: **OHC VICTORY DRIVE, LLC**, a Georgia limited liability company

By: [Signature] (SEAL)  
Print Name: Mikhael R. Boushew  
Title: Manager

Signed, sealed, and delivered in the presence of:

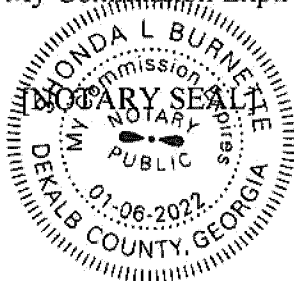
[Signature]

WITNESS

[Signature]

NOTARY PUBLIC

My Commission Expires: 1/6/2022



[SIGNATURES CONTINUE ON FOLLOWING PAGE]



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

SWH VICTORY: SWH VICTORY LLC, a Georgia limited liability company

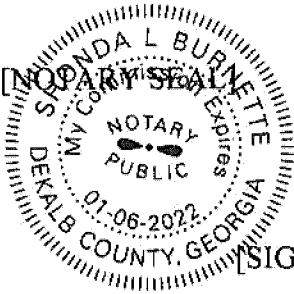
By: [Signature] (SEAL)  
Print Name: William R Braswell Jr  
Title: Member

Signed, sealed, and delivered in the presence of

[Signature]  
WITNESS

[Signature]  
NOTARY PUBLIC

My Commission Expires: 1/6/2022



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

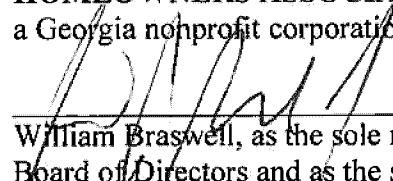
ParticipantIDs: 1358594985 SubmitterID: 7067927936

IN WITNESS WHEREOF, the Association hereby consents to and acknowledges this Amendment under seal as of the day and year first above written.

ASSOCIATION:


**RETREAT AT VICTORY  
HOMEOWNERS ASSOCIATION, INC.,**  
a Georgia nonprofit corporation

By:

  
William Braswell, as the sole member of the Board of Directors and as the sole officer of the Association

Signed, sealed, and delivered in the presence of:

[CORPORATE SEAL]

  
WITNESS

  
NOTARY PUBLIC

My Commission Expires: 1/6/2022

