

Return to:  
Weissman, Nowack, Curry & Wilco, P.C.  
One Alliance Center, 4<sup>th</sup> Floor  
3500 Lenox Road  
Atlanta, GA 30326  
Attn: Jay Lazega

Cross Reference: Deed Book 19375  
Page 028

**STATE OF GEORGIA  
COUNTY OF FULTON**

**AMENDMENT TO DECLARATION OF COVENANTS,  
RESTRICTIONS AND EASEMENT FOR EDENWILDE SUBDIVISION**

WHEREAS, the Declaration of Covenants, Restrictions, and Easement for Edenwilde was recorded on March 22, 1995 in Deed Book 19375, Page 028, *et. seq.*, Fulton County records; and

WHEREAS, the First Amendment to the Declaration was recorded on October 17, 1996 in Deed Book 21671, Page 035 *et. seq.*, Fulton County records; and

WHEREAS, Article IX, Section 9.03 of the Declaration provides that amendments to the Declaration must be approved by owners holding at least two-thirds (2/3) of the total votes in the Association; and

WHEREAS, this Amendment is not material with respect to any mortgagee in that it does not materially and adversely affect the security title or interest of any mortgagee; provided, however, in the event a court of competent jurisdiction determines that this Amendment does materially and adversely affect the security title or interest of any mortgagee without such mortgagee's consent to this Amendment, then this Amendment shall not be binding on the mortgagee so involved, unless such mortgagee 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 mortgagee; and

WHEREAS, Owners holding at least two-thirds (2/3) of the total votes in the Association has approved this Amendment;

NOW, THEREFORE, the Declaration is amended as follows:

**1.**

**The Declaration is hereby amended by adding to Article IV, entitled, "Assessments" the following Section:**

Section 4.12 Initiation Fee. The Board of Directors, in conjunction with computing the budget each Assessment Year, shall establish an initiation fee for the coming fiscal year in an amount, which shall in no event exceed the annual assessment for a Lot for such year. Upon every sale of a Lot to an Owner, the initiation fee shall be collected at the closing of such transaction and disbursed to the Association for the purpose of funding a reserve account for the recreation amenities. Said funds are to be maintained in a separate account for that purpose. The amount of the initiation fee established by the Board of Directors shall remain in effect for each Lot unless and until that amount is revised by the Board of Directors in conjunction with computing the budget for the following year. If the Board does not set a new amount for the initiation fee, the amount of the initiation fee for the current year will be in effect for the upcoming year. The initiation fee shall be in addition to and not in lieu of the annual assessment for such Lot.

2.

**Article IX, Section 9.03(b) is hereby amended by deleting the phrase “two-thirds (2/3)” in the second sentence of the section and inserting the phrase “one-third (1/3)” therefore, so that the second sentence of Section 9.03(b) thereafter shall read as follows:**

Such amendment must be approved by Owners holding at least one-third (1/3) of the total votes in the Association provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee and (ii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must be approved by the Declarant.

3.

**Article XI, Section 11.06 is hereby amended by deleting the section in its entirety and substituting the following therefore:**

11.06 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures, statements or other communications shall be in writing and, unless prohibited by under this Declaration, or under the By-Laws, shall be given: (1) by personal delivery to the addressee; (2) by United States mail, first class, postage prepaid; (3) by electronic mail; or (4) via facsimile.

Notice sent by one of the methods described above shall be deemed to have been duly given:

- (a) If to an Owner, at the mailing 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;

- (b) If to an Occupant, to the address of the Lot occupied and/or the electronic mail address or facsimile number which the Occupant has designated in writing and filed with the Secretary; or
- (c) If to the Association, the Board or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other mailing address, electronic mail address or facsimile number as shall be designated in writing by the Association's Board of Directors.

**4.**

**Article XI of the Declaration is hereby amended by adding the following Section 11.08 thereto:**

11.08 Electronic Records, Signatures and Documents. Notwithstanding any other provision of this Declaration or the Bylaws, records, signatures and notices which are accepted, created or given by the Board shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically.

(a) Use of Electronic Signatures. Whenever this Declaration authorizes an electronic communication, the Board may accept an accept an electronic signature as valid if: (1) the signature is easily capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (2) the Board reasonably believes that the signatory affixed the signature with the intent to sign the electronic document, and that the electronic document has not been modified since the signature was affixed.

(b) Verification and Liability for Falsification. The Board may require reasonable verification of any electronic signature, document, record or instrument. Pending verification, the Board may refuse to accept any electronic signature, document, record or instrument which, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any member or any other Person for accepting or acting in reliance upon an electronic signature or electronic document which the Board reasonably believes to be authentic. Any member or Person who negligently, recklessly or intentionally submits any falsified electronic document or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys' fees and expenses incurred as a result of such acts.

IN WITNESS WHEREOF, the undersigned officers of Edenwilde Homeowner's Association, Inc. hereby certify that this amendment to the Declaration was duly approved by the required Owners holding two-thirds (2/3) of the votes of the Association.

This the 20th day of March, 2003.

**(SIGNATURES ON FOLLOWING PAGE)**

**ASSOCIATION: EDENWILDE HOMEOWNER'S  
ASSOCIATION, INC.**

Sworn to and subscribed to before  
me this 20th day of March,  
2003.

By: \_\_\_\_\_(Seal)  
President

Attest: \_\_\_\_\_(Seal)  
Secretary

\_\_\_\_\_  
Witness

[CORPORATE SEAL]

\_\_\_\_\_  
Notary Public

[Notary Seal]

