

BK 34 759 PG 0254

FILED & RECORDED
CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

03 SEP 15 AM 8:00

TOM LAWLER, CLERK

After recording, please return to:
Lisa A. Crawford
Dorough & Dorough, LLC
Two Decatur TownCenter, Suite 520
125 Clairemont Avenue
Decatur, Georgia 30030

CROSS REFERENCE: Deed Book: 11648
Page: 225

**AMENDMENT TO DECLARATION OF
PROTECTIVE COVENANTS FOR MORNINGVIEW I**

THIS AMENDMENT (hereinafter referred to as "Amendment") is made this 12 day of AUGUST, 2003 by MORNINGVIEW I HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation (hereinafter referred to as "Association").

WITNESSETH

WHEREAS, Liberty Life Insurance Company, a South Carolina corporation, as Declarant executed that certain Declaration of Protective Covenants for Morningview I, which was recorded on August 25, 1995 in Deed Book 11648, Page 225, *et seq.*, Gwinnett County, Georgia records (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

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

WHEREAS, the Association and the Members desire to amend the Declaration as set forth herein to modify the Declaration to reflect the new name of the Association pursuant to the merger of the Association with the Morningview II Homeowners Association, Inc.; and

WHEREAS, pursuant to Article XII, Section 4 of the Declaration entitled "Amendment," the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the total Association vote and the consent of Declarant (so long as the Declarant has the right unilaterally to subject additional property to the Declaration); and

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WHEREAS, Members of the Association holding at least two-thirds (2/3) of the total Association affirmatively voted to amend the Declaration as hereinafter provided; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states unequivocally that the consent of the required Members of the Association holding at least two-thirds (2/3) of the total Association vote was lawfully obtained; and

WHEREAS, Liberty Life Insurance Company no longer has the right unilaterally to subject additional property to the Declaration;

NOW THEREFORE, the undersigned hereby adopt this Amendment to the Declaration of Protective Covenants for Morningview I, hereby declaring that all 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 section (a) to Exhibit "A" of the Declaration entitled, "Association" in its entirety and replacing it with the following Section (a) under Exhibit "A":

(a) "Association" shall mean Morningview Homeowners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

2.

The Declaration is hereby further amended so that any reference in the Declaration or any Exhibits thereto to the Morningview I Homeowners Association, Inc. shall mean a reference to the Morningview Homeowners Association, Inc.

3.

The Declaration is hereby amended by deleting section (c) to Exhibit "A" of the Declaration entitled, "Bylaws" in its entirety and replacing it with the following Section (c) under Exhibit "A":

(c) "Bylaws" shall refer to the Bylaws of the Morningview II Homeowners Association, Inc., attached as Exhibit "D" to the Declaration of Protective Covenants for Morningview II, recorded on June 25, 1996, Deed Book 12861, Page 137, Gwinnett County, Georgia records, as the same may be amended and supplemented from time to time.

4.

The Declaration is hereby further amended to delete Exhibit "D" to the Declaration entitled, "Bylaws of the Morningview I Homeowners Association, Inc." in their entirety and to replace in

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

ASSOCIATION:

MORNINGVIEW I HOMEOWNERS
ASSOCIATION, INC., a Georgia
nonprofit corporation

By:

Name:

Title:

President

Attest:

Name:

Title:

Secretary

Signed, sealed and delivered
in the presence of

Witness

Notary Public

[AFFIX CORPORATE SEAL]



[AFFIX NOTARY SEAL]



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EXHIBIT "A"

Sworn Statement Of President Of
Morningview I Homeowners Association, Inc.

STATE OF GEORGIA

COUNTY OF GWINNETT

Re: Morningview I

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

1. Deponent is the President of Morningview I Homeowners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of her own personal knowledge.
3. The foregoing Amendment to the Declaration of Protective Covenants for Morningview I, was approved by the required vote of a majority of the Owners of at least two-thirds (2/3) of the Lots as provided by law and the Declaration.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20.

This the 12 day of August, 2003.

By: [Signature]
Name: Beth Vago
Title: President

Sworn to and subscribed before me
this 12 day of August, 2003:

[Signature]
Notary Public



[AFFIX NOTARY SEAL]

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CLERK SUPERIOR COURT
GWINNETT COUNTY, GA

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After recording, please return to:
Lisa A. Crawford
Dorough & Dorough, LLC
Two Decatur TownCenter, Suite 520
125 Clairmont Avenue
Decatur, Georgia 30030

CROSS REFERENCE: Deed Book: 12861
Page: 137

**AMENDMENT TO THE BYLAWS OF
MORNINGVIEW II HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDMENT is made this 12th day of August, 2003, by **MORNINGVIEW II HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter referred to as "Association").

WITNESSETH:

WHEREAS, Johnson/Neel Properties, LLC, a Georgia limited liability company, executed that certain Declaration of Protective Covenants for Morningview II which was recorded on June 25, 1996 in Deed Book 12861, page 137, *et seq.*, Gwinnett County, Georgia land records (hereinafter as such document may have been supplemented and amended from time to time referred to as the "Declaration"), together with the Bylaws of Morningview II Homeowners Association, Inc., attached to the Declaration as Exhibit "D" and recorded therewith (hereinafter as supplemented and/or amended from time to time, the "Bylaws"); and

WHEREAS, pursuant to that certain Transfer and Assignment of Declarant's Rights for Morningview II, recorded on May 21, 1999, Deed Book 18432, Page 112, aforesaid records, Johnson/Neel Properties, LLC transferred and assigned its rights as Declarant under the Declaration to Johnson/Neel Investments, LLC, a Georgia limited liability company ("Declarant"); and

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

WHEREAS, the Association and the Members desire to amend the Bylaws as set forth herein to modify the Bylaws to reflect the new name of the Association and to increase the number

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of board members from five (5) to seven (7) pursuant to the merger of the Association with the Morningview I Homeowners Association, Inc.; and

WHEREAS, the Articles of Incorporation of the Association provide that a merger must be approved by the affirmative vote of members who are Owners of not less than two-thirds (2/3) of the Lots (other than Declarant), and the consent of Declarant, so long as Declarant owns any property for development and/or sale in the Development or which may unilaterally be subjected to the Declaration by the Declarant; and

WHEREAS, the merger of the Association with the Morningview I Homeowners Association, Inc. was approved by the required affirmative vote of members who are Owners of not less than two-thirds (2/3) of the Lots; and

WHEREAS, the Declarant no longer owns any property for development and/or sale in the Development or which may unilaterally be subjected to the Declaration by the Declarant; and

WHEREAS, Article VI, Section 4 of the Bylaws provide that the Bylaws may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds of the Total Association Vote; and

WHEREAS, this Amendment to the Bylaws was approved, in connection with the merger, by the required affirmative vote or written consent, or any combination thereof, of at least two-thirds of the Total Association Vote;

NOW, THEREFORE, pursuant to the powers set forth in Article VI, Section 4 of the Bylaws, and in accordance with the provisions of that Section and the plan of merger of the Association with the Morningview I Homeowners Association, Inc., the Association and the Members hereby amend the Bylaws as follows:

1.

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

Section 1. Name. The name of the Association shall be Morningview Homeowners Association, Inc. ("Association"). Any reference in these Bylaws to the Morningview II Homeowners Association, Inc. shall mean a reference to the Morningview Homeowners Association, Inc.

2.

The Bylaws are hereby amended by deleting Article III, Section 3, entitled, "Number of Directors," in its entirety and replacing it with a new Section 3 under Article III to read as follows:

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Section 3. Number of Directors. The Board of Directors shall consist of five (5) members; provided, however, the Board may at any time increase the number of Board members to seven (7).

3.

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

4.

This Amendment shall be effective upon being recorded in the records of the Clerk of Superior Court of Gwinnett County, Georgia and shall be enforceable against current Members subject to the Bylaws.

5.

Except as herein modified, the By-Laws shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

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

ASSOCIATION: **MORNINGVIEW II HOMEOWNERS
ASSOCIATION, INC., a Georgia
nonprofit corporation**

By: *Douglas A. Schwendy*
Name: Douglas A. Schwendy
Title: President

Attest: *[Signature]*
Name: *[Signature]*
Title: Secretary

Signed, sealed and delivered
in the presence of

[Signature]
Witness

[Signature]
Notary Public

[AFFIX CORPORATE SEAL]



[AFFIX NOTARY SEAL]



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