

**AMENDED AND RESTATED COVENANTS AND
RESTRICTIONS OF CHATUGE VILLAGE SUBDIVISION**

This instrument prepared by and,
After recording, mail to:
Philip J. Roth, Esq.
Marshall, Roth & Gregory, PC
P.O. Box 769
Asheville, NC 28802

***THIS DOCUMENT REGULATES OR PROHIBITS
THE DISPLAY OF POLITICAL SIGNS***

NORTH CAROLINA
CLAY COUNTY

THIS *Amended and Restated Covenants and Restrictions of Chatuge Village Subdivision* (hereinafter, the "Declaration"), is made and entered into this _____ day of _____, ~~2024~~**2025**, by the **Chatuge Village Community Association, Inc.**, a North Carolina nonprofit corporation (hereinafter, the "Association"), the property owners association for Chatuge Village located in Clay County, North Carolina.

RECITALS

WHEREAS, the *Covenants and Restrictions of Chatuge Village* was recorded on June 3, 1967 in Deed Book 55 at Page 525 (the "Initial Declaration") in the Office of the Register of Deeds for Clay County, North Carolina (the "Registry");

WHEREAS, Chatuge Village comprises all that real property as depicted on Plat Book 2, Page 6¹ in the Registry (hereinafter, the "Village") together with additional lots as depicted from various plats of the Village from time to time;

¹ The Plat is referenced as being recorded in Plat Book 1, Page 6 in the Initial Declaration.

WHEREAS, the Association has succeeded the Declarant and now manages the affairs of the Village;

WHEREAS, the Initial Declaration has been amended and restated on multiple occasions over time, most recently on January 25, 2002 ~~at in Deed~~ Book 245, ~~at P~~page 69 of said Registry (“2002 Declaration”);

WHEREAS, the Association has the authority to modify the 2002 Declaration pursuant to a vote of 67% of the total votes allocated in the Association; and

WHEREAS, the Association desires to amend and restate the 2002 Declaration as set forth below – such that this Declaration shall supersede the 2002 Declaration, the Initial Declaration, and all previous amendments and restatements thereto – and that the instant Declaration shall apply to all present and future owners in Chatuge Village from and after the effective date hereof.

NOW, THEREFORE, the Declaration is hereby amended and restated as set forth below, which Declaration shall supersede all prior Chatuge Village declarations, amendments and restatements thereto. All of the property within the Village is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to this Declaration, as hereby amended, which Declaration is established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Village as a whole. This Declaration shall run with the land and shall be binding upon the owners having or acquiring any right, title or interest, legal or equitable, in and to property within the Village or any part or parts thereof subject to such Declaration, and shall inure to the benefit of each owner and every successor in title to any property within the Village.

COVENANTS AND RESTRICTIONS

~~Section~~Article I

Use Restrictions

1. All lots in the Village shall be used solely for single-family residential purposes and no business or commercial activity will be permitted on or upon a lot. Only one single-family dwelling (hereinafter, “Residence”) and one accessory, unattached out-building as is typically incidental to a Residence, shall be permitted on any lot; provided, however, that any non-conforming out-building that has been constructed or placed on a lot prior to the recording of this Declaration shall not be deemed a violation of this ~~p~~Paragraph 1.

2. No business or commercial activity will be permitted on a lot and no commercial structure or activity of any type shall be placed upon any lot or allowed within the Village. This restriction shall not be construed so as to disallow private home offices provided that the use of such home office does not alter the character and nature of the community; generate pedestrian or vehicular traffic in conjunction with such office use; or involve non-resident employees.

3. No ~~dwelling-Residence~~ shall be erected with less than 1,000 square feet of heated living space, exclusive of open porches, carports or garages.

4. No structure may be placed or erected upon any lot which shall lie or rest within twenty (20) feet of any side boundary line of said lot, or within twenty-five (25) feet of the edge of a road. If an owner combines one or more lots, only the exterior boundary lines of the combined lots are to be considered. Upon written application of an owner, the Board of Directors (hereinafter, "Board") is authorized, in its sole discretion, and for good cause shown, to grant or deny variances with respect to the foregoing setback restrictions. Before rendering a decision, the Board may require the owner to provide additional information the Board deems necessary to its consideration such as floor or site plans, surveys, and waivers by adjacent owners.

5. Owners wishing to make additions to, or remodel, the exterior of their residences or out-buildings shall submit an application to, and receive authorization by, the Board.

6. No temporary dwellings – such as tents, camping trailers, mobile homes, motor homes, and Recreational Vehicles (RV's), whether occupied or unoccupied – shall be permitted in the Village. The foregoing notwithstanding, the Board is authorized to approve, in its sole discretion, and for good cause shown, an exception to such prohibition for not more than three (3) days. No such temporary dwelling will be parked or located on common area.

7. No lot shall be further subdivided. Two or more lots may be combined into one lot. Once lots are combined, they may not be subdivided again. Owners who combine two or more lots into one lot will be responsible for only one assessment. Any owner wishing to combine two or more lots into one lot and be eligible for only one assessment shall fill out an application and return it to the Board. The owner shall be responsible for notifying Clay County regarding the combination and complying with any requirements imposed by the County. Any owner who has erected a residence or out-building that is located on more than one lot shall combine the lots to form a single lot.

8. All rentals of property located within Chatuge Village are made expressly subject to the following special terms and conditions: The tenant shall be made aware of all covenants, restrictions and other rules and regulations of Chatuge Village, and be required by the underlying lease or similar document to agree to abide by the same. The lease shall also state that any violation of such covenants, restrictions and other rules and regulations shall constitute a material breach of said lease. The owner(s) shall be held responsible for any violations of this Declaration or other rules and regulations. Owners of property rented to others should inform tenants that they must consider the privacy of neighbors and not trespass across any neighbor's property.

9. No skateboarding, roller skating or driving unlicensed motor bikes or all-terrain vehicles (ATVs) is allowed on the roads in the Village. Privately-owned golf carts are permitted and must comply with all posted speed limit and traffic control signs in the Village.

10. To preserve the relative tranquility of the community, excessive noise emanating from any ~~dwelling~~ Residence or lot which tends to disturb the quiet enjoyment of other owners in the subdivision or create a nuisance or annoyance to them, is generally prohibited. Quiet hours shall be observed between the hours of 11:00 PM to 7:00 AM. "Quiet hours" shall mean a prescribed period during which loud music or activities (e.g., parties, construction) and such

other excessive noise as the Board may prohibit through the promulgation of rules and regulations, is prohibited.

11. Title to streets, water system facilities, marina and common ground areas is retained by the Association.

12. No hunting or trapping of wild animals shall be permitted.

~~13. Except in cases of lawful self-defense, nor shall any~~ firearms shall be discharged, within the Village.

~~14.~~ No farm or livestock animals shall be permitted in the Village. Only domestic pets not kept or bred for commercial purposes are permitted.

~~15.~~ No clothesline shall be permitted in the Village that is visible from any of the Village roads, or from the waters of Lake Chatuge.

~~16.~~ No junked, neglected, abandoned, discarded, unlicensed or inoperable Vvehicles (hereinafter "Pprohibited Vvehicles") shall be allowed in the Village. Upon determining that a Vvehicle is prohibited, the Association shall provide the owner of any such Pprohibited Vvehicle with notice of the violation of this paragraph, and a reasonable opportunity to dispose of, or otherwise address the Pprohibited Vvehicle as warranted by the given circumstances. ~~If the owner fails to take the required remedial action, the Board shall have the authority to remove and store the prohibited vehicle at the owner's expense. The expense shall be treated as a regular assessment to the owner.~~ For purposes of this paragraph, "Vvehicle" means any land-, air- or water-based instrumentality designed to convey persons or goods; "unlicensed" means a Vvehicle that does not display a requisite, current tag; and "junked" means a Vvehicle that is determined by the Board, in its sole discretion, to be discarded or has otherwise outlived its usefulness for its intended purpose.

Section Article II

Improvements

~~1. To protect and enforce the setback requirements listed in Section I(4) above, no Improvements shall be made to any lot without first submitting a CVCA Application and receiving written approval from the Board. For purposes of this paragraph, "improvement" means all new construction, outbuildings, remodeling or additions that would extend outside the footprint of existing structures.~~

~~2.~~ To protect against encroachment on ~~our~~ roadway easements and setback requirements ~~listed set forth in in Section Article I, paragraph (4)~~ above, no Improvements shall be made to any lot without first submitting a CVCA Application and receiving written approval from the Board. For purposes of this paragraph, "Iimprovement" means Residences, Dwelling Units, out-buildings, garages, driveways, parking pads, fences, walls or hedges that would infringe on the road right-of-way easement, or setback requirements, or impair safety on the roads and sightlines and/or interfere with community water lines.

~~3. To protect our roads and provide for a Road Impact Fee, no Improvements shall be made to any lot without first submitting a CVCA Application and receiving written approval~~

~~from the Board. For purposes of this paragraph, "improvement" means tree removal, land clearing, installation or maintenance of riprap, seawalls, docks or boat ramps, or other activity which necessitates heavy equipment and trucks, all of which shall be subject to the Road Impact Fee described below.~~

42. The Board shall promulgate and maintain construction guidelines, and will provide a written schedule of the fees that are required prior to an owner commencing any Improvement. These fees, which may be adjusted from time to time as necessary to meet market costs, include, but are not limited to: an Application Fee (which will include and provide for a main water supply/shutoff valve at the property line); and a Road Impact Fee ~~for the purpose of compensating for wear and tear and damage to roads associated with construction, renovation or demolition, (based on the extent of work anticipated, and the estimated potential damage to roads).~~ The Board reserves the right to waive or reduce any fees where it, in its sole discretion, deems the waiver or reduction warranted under the circumstances. Nothing in this paragraph shall prohibit the Board from otherwise seeking compensation for actual damage to the roads associated with an owner's construction, renovation or demolition.

53. Prior to commencing any Improvement, the owner shall submit a Clay County Building permit (as may be required by the County) and a completed Application on a form established by the Board. Depending on the nature of the planned Improvement, such Application may require the submission of plans, site drawings and specifications. The Board's decision regarding an Application must be evidenced by the signature of the President or, in his or her stead, the Vice President. If the Board does not act upon a pending and complete Application within thirty (30) days, the Application is deemed to have been approved.

64. Installation and/or modification of water lines from any structure to the Village water supply line and connection of said water lines to the Village water supply must be approved by the Board. All costs, including labor and material for such installation, modification and/or connection, are the responsibility of the owner. The connection of the owner's water lines to the Village water supply line must be completed by the CVCA water system designated contractor or maintenance company. The owner owns and is responsible for the maintenance of that portion of the water lines on the owner's property. Street cut-offs and that portion of water lines on the CVCA road right of way, are property of the Association.

75. Any structure commenced on any lot shall be completed within 12 months. A full assessment will be charged to the owner at the end of the 12 months from the construction start date even if the structure is not complete.

Section Article III

Assessments

1. The Association shall have the right to assess each lot in Chatuge Village for the upkeep and maintenance of the roads, the installation, upkeep and maintenance of the water systems, furnishing water to the Village residents, the maintenance of common and public areas, including the employment of agents needed to assist or provide these services,

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household garbage pick-up, bookkeeping, billing and collection of said charges, including, the employment of agents deemed necessary by the Board for the management and maintenance of Village properties and services to be performed. The amount and schedule for payment of said ~~charges-assessments~~ shall be proposed by the Board and approved by a majority of the Association Membership, and the owners of lots or property within Chatuge Village shall be responsible for the payment thereof. Each owner, by acquiring or holding an interest in any lot, thereby covenants to pay such assessment.

2. Assessments are made as follows: a full assessment for developed lots (single and combined lots with any structure); a partial assessment for unimproved lots (no development and not combined as part of a developed lot).

3. Assessments are billed on a quarterly basis and full payment is due by the last day of the first month of the quarter. Among other remedies, the Association may disconnect water service if payment is not received by the due date.

The owner shall be notified in writing, by first class mail, of the Association's intention to disconnect water service not fewer than fifteen (15) days prior to the disconnection of said water service. To avoid disconnection, or to have water services reconnected once disconnected, the owner must bring the owner's account current and reimburse the Association for any charges it incurs in disconnecting/reconnecting the water service.

4. Each assessment not paid within thirty (30) days of the due date, together with any late fees, interest in the amount of eighteen percent (18%) per annum, costs and attorneys' fees thereon, shall be a permanent and continuing lien upon the lot against which the assessment was made. Such lien may be perfected and enforced pursuant to the provisions of § 47F-3-116 of the PCA or any other remedy provided by law. Each such assessment, together with interest, costs, and reasonable attorney fees, shall be the personal obligation of the owner(s) at the time the assessment fell due.

5. No owner may be relieved from any liability or the assessments provided for herein by non-use of the property or common areas; by virtue of having a well located on the owner's property; or otherwise. ~~Provided, however, that the lien for the assessments authorized herein with respect to any parcel is hereby made subordinate to the lien of any mortgage holder placed on such parcel.~~

6. The owner has the sole responsibility of keeping the Association informed of the owner's current address if different from the Lot owned. Otherwise notice sent by Association to the Lot (upon which a ~~dwelling-Residence~~ is constructed) is sufficient for any notice requirement under this Declaration.

7. The Board shall determine assessments based on the adopted budget and the Board's reasonable estimate as to the income and expenses anticipated based on the aforesaid budget. The total amount of the budget, including an amount needed for the reserve fund(s), shall be pro-rated according to the number of lots and, if applicable, the number of separate Dwelling Units per lot. For purposes of this paragraph, a "Dwelling Unit" consists of a separate entrance and kitchen appliances. The foregoing notwithstanding, any lot on which one or more separate Dwelling Units have not been subject to assessment prior to the effective

date of this Declaration, shall not be deemed to be separately assessable until title to that Dwelling Unit is conveyed by the current owner as of the effective date of this Declaration.

8. Any single proposed expenditure by the Board in an amount in excess of ten thousand dollars (\$10,000.00) must be approved by the members at a meeting called for the purpose and at which a quorum is present.

9. The Board may levy special assessments in the event operating funds are insufficient to construct, structurally alter, repair, or replace Improvements in the common areas. Any proposed special assessments shall require the approval of sixty-seven percent (67%) of the votes of Members who are voting in person, or by proxy, at a meeting duly called for this purpose. Any such special assessments shall be paid as determined by the Board, and the Board may permit such special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed. Nothing in this paragraph requires the Association to exhaust reserve funds prior to imposing a Special Assessment.

Section Article IV

Other Considerations

1. The Association shall have the right to maintain any lot, property or structure that the Board deems, in its sole discretion, to be neglected by the owner. Overgrown weeds and brush, dead limbs and trees, habitation of vermin, and potential fire hazard are concerns of all residents in the Village. If, after the Board provides reasonable notice and opportunity to the owner to maintain the lot, the Board may cause such maintenance to occur and thereafter assess the owner for the expense the Association incurred in doing so. ~~The assessment shall be enforced as with any regular assessment.~~

2. Dogs and cats or other domestic pets shall not be allowed to roam unattended in the Village, but instead be confined while on the owner's property, or leashed and under control when located off the owner's property. No pet shall otherwise create a nuisance to other owners. For purposes of this paragraph, "nuisance" means, but is not necessarily limited to, damaging, soiling, or defiling private property or the common area; interfering with, molesting or attacking persons or other animals; causing unsanitary, dangerous or offensive conditions including fouling of the air by odors; chasing, threatening, harassing, or impeding pedestrians, bicyclists, or vehicles; by virtue of the number and breed of the animal is offensive or dangerous to public health, safety, or welfare; is diseased or dangerous to public health; or the animal habitually, excessively, or repeatedly makes noises or other sounds that tend to annoy, disturb or frighten neighbors.

3. The maximum speed limit on any road within the Village shall be fifteen (15) miles per hour. The Association shall have authority to enforce the speed limit and to impose other rules and regulations regulating traffic and parking in the Village.

All Vehicles (as defined in ~~Section Article I, paragraph (165)~~) of owners and their guests must be parked on the owner's property at all times. Temporary overflow parking on the roadside easement shall be allowed for a maximum of three days and must not obstruct traffic flow.

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Owners of those few lots that are so steep as to make parking on the lot impractical may park their ~~automobiles-Vehicles~~ off the road on the roadside easement adjacent to their lot; provided, however, that ~~the number of automobiles does not exceed the number of licensed drivers in the residence, and that the automobiles-Vehicles~~ do not obstruct traffic flow. Any other ~~V~~ehicles may not be parked in the roadside easement except on a temporary basis.

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Automobiles, boats and conveyances other than the owner's personal automobile may not be parked in the roadside easement except on a temporary basis.

4. Except as otherwise required by law, no signs of any kind will be allowed on any property in the Village without the express approval of the Board. The only approved signs will be lot numbers, names and traffic control signs such as speed limits, one way, dead-end, etc., and "for sale" or "for rent" signs.

5. Except as otherwise required by law, no flags of any kind will be allowed on any property in the Village other than those of the United States, the State of North Carolina, and apolitical-themed flags including holiday, seasonal, sport team and ornamental flags.

~~65.~~ Household garbage must be placed in closed plastic bags and stored in secure containers to protect from foraging animals. It is the responsibility of the owner, not the pickup service, to clean up any garbage strewn about by foraging animals. Garbage cans should be placed on the curb no earlier than the night before scheduled pickup, and must be removed from the roadside by the end of the pickup day. Yard waste and/or other non-household garbage will not be included as part of the pickup. Garbage pickup service does *not* include pickup of recyclables. Any recyclables can be taken to the Clay County Transfer station by the owner in accordance with County regulations.

Where an owner's personal circumstances or property dimensions make it difficult or impractical to transport garbage cans to the curb, an owner may, subject to design guidelines established by the Association, request authorization to install a garbage can enclosure at the curb at owner's expense. The foregoing provision regarding design guidelines notwithstanding, any such garbage can enclosure in existence as of the effective date of this Declaration may remain in place until the end of its useful life at which time the owner will be required to replace the enclosure with one conforming to the design guidelines then in place.

~~76.~~ The Association and each person to whose benefit this Declaration inures, may proceed at law or in equity to prevent the occurrence, continuance, or violation of any provisions of this Declaration, the Bylaws or other rules and regulations, and the Court in such action may award the successful party reasonable expenses in prosecuting or defending such action, including attorneys' fees. The Association may also impose fines, and suspend privileges and services, pursuant to Among other available remedies, § 47F-3-107.1 of the North Carolina Planned Community Act ~~empowers the Board, after holding a hearing and giving an owner~~

~~an opportunity to be heard, to assess daily fines or suspend privileges or services for violations of the covenants.~~

87. Each owner shall have the right to examine the books of CVCA as provided by Chapters 47F and 55A of the North Carolina General Statutes.

98. This Declaration may be amended at any time by an instrument signed by, or upon the affirmative vote of, sixty-seven percent (67%) of all of the votes allocated in the Association. The President shall cause any such amendment to be reduced to a written instrument and the Secretary shall certify the procedure by which the amendment was enacted. The amendment itself shall be effective only upon recording.

109. All of the restrictions, conditions, covenants, charges, easements and agreements contained in this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless sooner terminated in accordance with § 47F-2-118 of the North Carolina Planned Community Act.

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IN WITNESS WHEREOF, the Association has caused this instrument to be executed as of the day and year first written above.

CHATUGE VILLAGE COMMUNITY ASSOCIATION

BY: _____
John L. Fossett, III, President

STATE OF NORTH CAROLINA _____ COUNTY

I, _____, a Notary Public for said County and State, do hereby certify that **John L. Fossett, III** personally came before me this day and acknowledged that he is President of **Chatuge Village Community Association**, a North Carolina non-profit corporation, and that he, as President being authorized to do so, executed the foregoing on behalf of the corporation. Witness my hand and official seal, this the ____ day of _____, 20245.

My Commission Expires:

NOTARY PUBLIC

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly-appointed secretary of **Chatuge Village Community Association**, a non-profit, North Carolina Corporation, and,

That the foregoing Restatement was duly adopted at a meeting of the Association upon affirmative vote of not less than sixty-seven percent (67%) of the votes entitled to be cast on the measure on the ____ day of _____, 202~~5~~⁴.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal (if any) of said Association this ____ day of _____, 202~~5~~⁴.

Printed: _____

_____, Secretary