

# Hickory Farms Community Association

## VPOAA Disclosure Packet (Part 2 of 2)

July 2020

Hickory Farms Community Association  
P.O. Box 2239  
Fairfax, Virginia 22031  
[www.hickoryfarms.org](http://www.hickoryfarms.org)

This is Part 2 of a two-part Hickory Farms Community Association (HFCA) Virginia Property Owners' Association Act (VPOAA) Disclosure Packet. Part 1, which contains specific information pertaining to the property you are purchasing, is available upon request from [Treasurer@HickoryFarms.org](mailto:Treasurer@HickoryFarms.org). You must receive both parts of the Disclosure Packet to comply with VPOAA.

HFCA assesses a fee of \$146.71 for the preparation and delivery of your disclosure packet. This fee is authorized by the Virginia Common Interest Community Board. The fee must be paid in full before Part 1 can be delivered to you. For more information, please see <https://hickoryfarms.org/selling-your-home>

**Lenders and Settlement Companies: Please review this document and page 4 of Part 1 BEFORE you ask the Treasurer for more information. ALL of your required information is contained in Parts 1 and 2. We are a self-managed association and it is a burden on our homeowner volunteers to deliver information to you twice.**

Seller: Please forward this document IMMEDIATELY to your Settlement Company.

Buyer: YOU should review both Parts 1 and 2 of this Disclosure Packet. DO NOT rely on your real estate agent to explain these documents to you.

Buyer: If you are not comfortable with the contents of these documents, under the VPOAA, you have three days within receipt of the Disclosure Packet (both Parts 1 and 2) to cancel your home purchase contract.

Buyer: As soon as possible, please send your name(s), telephone number(s), and email address(es) to [Treasurer@HickoryFarms.org](mailto:Treasurer@HickoryFarms.org) and [Kirk\\_Randall@Hotmail.com](mailto:Kirk_Randall@Hotmail.com). The Board of Directors needs this information for the mailing of Annual Assessment bills.

Once you have purchased a property in Hickory Farms, it will be subject to the Hickory Farms 1) [Deed of Dedication and Declaration of Covenants, Conditions and Restrictions](#) (see especially Article VII – Restrictive Covenants and 2) [Rules and Regulations](#), both of which are included in this document.

Yes, we know that this document is nearly fifty pages long. But, this house purchase is possibly the most important purchase you have taken. Please take a few hours to read Parts 1 and 2 NOW so you know what you're getting into.

Please carefully note any violations listed under item 9 of Part 1, which are the seller's responsibility to remedy before closing. Some violations affecting the external appearance of the home (fences, decks, siding, etc.) require prior Architectural Control Committee approval before repairs can begin. This could delay your closing. If you nonetheless choose to purchase the home with outstanding violations, you will become immediately liable to bring the property into compliance. If you do not do so, the HFCA may place a lien on the property.

Do you plan to change the exterior appearance of the property once you move in? Improvements which change the appearance of the exterior of the house or lot may require prior approval by the Architectural Control Committee (ACC). [Click here](#) for more information ([www.HickoryFarms.org](http://www.HickoryFarms.org) / ACC Approval of Your Exterior Renovation Project — How to Get it)

The Disclosure Packet may become out of date if closing is delayed. Contact the [Treasurer](#) for an update if your closing is to occur more than 45 days from now.

Please visit [www.hickoryfarms.org](http://www.hickoryfarms.org) to learn more about our community. While there, you may wish to browse recent community newsletters to learn more about Hickory Farms. Please also visit <http://groups.yahoo.com/group/HickoryFarms/> to join the Hickory Farms email Listerv group, where residents share information such as plumber, electrician, and lawn care referrals, notices of lost pets, receive Newsletters, etc. Some residents also choose to participate in the [www.Nextdoor.com](http://www.Nextdoor.com) social media.

**Note: [ ] = Reference to Section 55-1800 of the  
[Virginia Property Owners' Association Act](#)**

**[1] Association name, and if incorporated, the state of incorporation and the name and address of its registered agent in Virginia;**

Hickory Farms Community Association ("HFCA") is a Virginia Corporation  
Corporate ID: 016099  
Registered Agent: Robert J. Segan, 7010 Little River Turnpike, Suite 270, Annandale,  
Va. 22003

**[2] A statement of any expenditures of funds approved by the association or the board of directors that shall require an assessment in addition to the regular assessment during the current year or the immediately succeeding fiscal year;**

None

**[3] A statement, including the amount of all assessments and any other mandatory fees or charges currently imposed by the association, together with any post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition, and maintenance of the lot and to the right of use of common areas, and the status of the account;**

Annual Assessments are \$250. They are payable no later than January 7 of each year, and a \$50 late assessment may be charged for payments received after that date. If the Assessment is not paid by February 1, the account may be sent to the Association's attorneys for collection.

Notification of the Annual Assessment is done through a mailing to homeowners in November and the Hickory Farms Newsletter, which is 1) hand delivered to each home, 2) mailed to absentee homeowners who have provided the Board of Directors with their contact information, 3) emailed to those homeowners who participate in the Hickory Farms email "listserv" email service, and 4) available at <https://hickoryfarms.org/newsletter>

**[4] A statement of whether there is any other entity or facility to which the lot owner may be liable for fees or other charges;**

None

**[5] The current reserve study report or summary thereof, a statement of the status and amount of any reserve or replacement fund, and any portion of the fund allocated by the board of directors for a specified project;**

It is the policy of the Association to maintain a reserve fund approximately equal to one year of the Association's Annual Assessments (\$49,500).

**[6] A copy of the association's current budget or a summary thereof prepared by the association, and a copy of its statement of income and expenses or statement of its financial position (balance sheet) for the last fiscal year for which such statement is available, including a statement of the balance due of any outstanding loans of the association;**

## Hickory Farms Community Association (HFCA) Adopted 2020 Budget

<b>Income</b>	
Annual Assessment - 2020 Year	\$ 49,500.00
Annual Assessment - Pre-Paid	
Late Fees	
Interest - Checking	\$ 12.00
Legal Fees/Liens	
Advertising	\$ 1,200.00
VPOAA Disclosure Package Fees	\$ 881.00
<b>Total Income</b>	<b>\$ 51,593.00</b>
<b>Expenses</b>	
Common Grounds Maintenance	\$ 23,690.00
Common Grounds Improvement	\$ 6,090.00
Common Grounds Remediation	\$ 4,120.00
Legal Fees	\$ 2,060.00
Printing	\$ 1,545.00
Social	\$ 1,545.00
Neighborhood Watch	\$ 206.00
Management Liability Insurance	\$ 2,060.00
Commercial Crime Insurance	\$ 618.00
General Liability Insurance	\$ 309.00
Tax Preparation/Audit	\$ 335.00
Taxes & Government Charges/Fees	\$ 247.00
Administrative Fees	\$ 824.00
Bank Charges	\$ 52.00
Postage	\$ 258.00
Strategic Projects	\$ 2,000.00
Capital Refresh	\$ 2,200.00
<b>Total Expenses</b>	<b>\$ 48,159.00</b>
<b>Net Income or (Loss)</b>	<b>\$ 3,434.00</b>

**Notes:**

1. \$25,180.80 Reserve Fund as of 9/11/2019 – It is HFCA policy to maintain a reserve fund invested in low risk financial instruments.
  
2. The 2020 budget and setting of the 2020 annual assessment were approved by the HFCA Board of Directors on September 09, 2019. The 2020 annual assessment is \$250.00. Under the Hickory Farms Bylaws and the Virginia Property Owners Association Act, the Board of Directors must approve a budget and set an annual assessment for the forthcoming year.

3. On September 9, 2019, the Board approved a revision to our Rules and Regulations authorizing it to assess a fee for the preparation and delivery of a disclosure packet each time a home is sold. The Board also approved a fee of \$146.71, which is the amount authorized by the Common Interest Community Board in Richmond, which took effect January 1, 2020.

<b>2019 HFCA Income and Expenses</b>			
<b>Income</b>		<b>Expenses</b>	
Annual Assessments	\$ 39,600.00	Common Areas - Maintenance	\$ 20,389.36
Newsletter Advertising	\$ 2,088.70	Common Areas - Improvement	\$ 6,012.32
Late Fees	\$ 950.00	Common Areas - Remediation	\$ 7,414.32
Legal Fees/Leins/Refunds	\$ 50.00	Printing	\$ 2,499.27
Seller Disclosure Packet Fees	\$ -	Insurance - Management Liability	\$ 1,818.00
		Insurance - Commercial Crime	\$ 250.00
		Insurance - General Liability	\$ 416.00
		Social Activities	\$ 1,649.90
		Administrative Fees	\$ 802.35
		Taxes & Fees	\$ 325.00
		Tax Preparation	\$ 305.00
		Postage	\$ 227.90
		Legal Fees	\$ 200.00
		Bank Fees	\$ 71.90
		Neighborhood Watch	\$ -
<b>Total Income</b>	<b>\$ 42,688.70</b>	<b>Total Expenses</b>	<b>\$ 42,381.32</b>
<b>Net Income or (Loss)</b>	<b>\$ 307.38</b>		
Under the Hickory Farms Bylaws and the Virginia Property Owners Association Act, the Board of Directors sets an annual assessment. The 2020 Assessment of \$250 was affirmed by the Members at the October 2019 Annual Meeting. The 12/31/2019 balance of the Association's Reserve Account was \$25,184.			

The association has no outstanding loans.

**[7] A statement of the nature and status of any pending suit or unpaid judgment to which the association is a party and that either could or would have a material impact on the association or its members or that relates to the lot being purchased;**

None

**[8] A statement setting forth what insurance coverage is provided for all lot owners by the association, including the fidelity bond maintained by the association, and what additional insurance would normally be secured by each individual lot owner.**

The Association holds the following insurance policies to cover the Common Areas and directors and officers of the Board of Directors:

- *Commercial Liability* with Travelers Property Casualty
- *Commercial Crime* with Travelers Property Casualty
- *Directors and Officers Liability* with Chubb Group of Insurance Companies.

Email [Treasurer@HickoryFarms.org](mailto:Treasurer@HickoryFarms.org) or Moody Insurance Worldwide (301-417-0001) for more information.

The Association does not provide insurance coverage for individual lot owners. The Association encourages all homeowners to obtain insurance coverage for their home and personal property, as well as a personal liability policy.

**[9] A statement that any improvement or alteration made to the lot, or uses made of the lot or common area assigned thereto, are or are not in violation of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association;**

See Part 1 of this Disclosure Packet.

**[10] A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to place a sign on the owner's lot advertising the lot for sale;**

Under Article VII, Section 12 of the [Deed of Dedication and Declaration of Covenants, Conditions and Restrictions](#): “No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.”

**[11] A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to display any flag on the owner's lot, including but not limited to reasonable restrictions as to the size, place, and manner of placement or display of such flag and the installation of any flagpole or similar structure necessary to display such flag;**

None

**[12] A statement setting forth any restrictions as to the size, place, duration, or manner of placement or display of political signs by a lot owner of his lot.**

Under Article VII, Section 12 of the [Deed of Dedication and Declaration of Covenants, Conditions and Restrictions](#): “No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.”

**[13] A statement setting forth any restriction, limitation, or prohibition on the right of a lot owner to install or use solar energy collection devices on the owner's property;**

None. However, solar energy collection devices must be approved by the Architectural Control Committee in advance of installation.

**[14] The current declaration, the association's articles of incorporation and bylaws, and any rules and regulations or architectural guidelines adopted by the association;**

**Deed of Dedication and Declaration of  
Covenants, Conditions and Restrictions**

Recorded at Book 4302, Page 519 of Fairfax County property records  
Amended at Book 4574, Page 705 & Book 5482 Page 884

THIS DEED OF DEDICATION AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, Made this 20<sup>th</sup> day of October 1975, by and between HICKORY FARMS LIMITED PARTNERSHIP, a Virginia limited partnership, party of the first part: JOHN J. COLLINS and CHARLES A. TRAINUM, JR., Trustees, parties of the second part; MORTGAGE INVESTORS OF WASHINGTON, Beneficiary, party of the third part; and WEAVER BROS., INC., Beneficiary, party of the fourth part.

\*\*\*\*\* W I T N E S S E T H \*\*\*\*\*

WHEREAS, the party of the first part is the owner of the hereinafter described property, having acquired the same by deed recorded just prior hereto among the land records of Fairfax County, Virginia.

WHEREAS, by deed of trust recorded in Deed Book 3594 at page 445 and supplemental deed of trust recorded in Deed Book 4039 at page 64, and modified in Deed Book 4227 at page 115, among the land records of Fairfax County, Virginia, certain property of which the hereinafter described property is a portion, was conveyed in trust to the parties of the second part, Trustees, to secure unto the party of the third part, Beneficiary, the payment of certain sums of money more particularly described in said deeds of trust.

WHEREAS, by deed of trust recorded in Deed Book 3594 at page 452, and supplemental deed of trust recorded in Deed Book 4052 at page 191, and modified in Deed Book 4227 at page 121 and corrected in Deed Book 4242 at page 709, among the land records of Fairfax County, Virginia, certain property of which the hereinafter described property is a portion, was conveyed in trust to the parties of the second part, Trustees, to secure unto the party of the fourth part, Beneficiary, the payment of certain sums of money more particularly described in said deeds of trust.

WHEREAS, the party of the first part desires to subdivide the hereinafter described property in accordance with the approved plat attached hereto and made a part hereof, and the parties of the second, third and fourth parts hereto, join in this instrument to give their consent and approval of the lots, streets, parcels and easements embraced within the land being hereby dedicated.

WHEREAS, the parties hereto being the owners and proprietors and the only parties having any interest in the hereinafter described parcel of land, desire to subdivide the said tract of land in accordance with the plat attached hereto and made a part hereof, and to dedicate to public use the streets as shown on said plat.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid, receipt of which is hereby acknowledged, the said parties hereto being the sole owners and proprietors and all parties having any interest in the hereinafter described parcel of



land, do hereby subdivide all that certain tract of land lying and being in Annandale District, Fairfax County, Virginia, more particularly described as follows:

BEGINNING at an iron pipe set on the easterly side of Virginia Route 653 (Roberts Road), said pipe being on the southerly side of an existing 20 foot wide outlet road from the Hunt Property; thence departing Roberts Road and with the southerly side of said outlet road and Hunt S. 80°50'29" E. 902.13 feet to an iron pipe found; thence continuing with Hunt following courses and distances: S 00°04'27" W. 617.48 feet to an iron pipe found; S 80°44'57" E. 837.98 feet to an iron pipe found in the line of Lot 3, Section One, of Fair Oaks Subdivision; thence with said Lot 3, S 01°28'12" W. 52.99 feet to a point, said point being the southwesterly corner of Lot 2 of Fair Oaks Subdivision; thence with Lot 2, S 88°32'58" E. 630.14 feet to an iron pipe found on the westerly side of Route 652 (Burke Station Road); thence with Burke Station Road the following courses and distances: S 01°27'02" W. 71.65 feet to an iron pipe set; S 27°41'02" W. 31.60 feet to an iron pipe set at the northeasterly corner of Lot 1 of Fair Oaks Subdivision; thence departing Burke Station Road and with said Lot 1, N 88°32'58" W. 616.21 feet to an iron pipe found at the northwesterly corner of Lot 1, thence continuing with Lot 1, the following courses and distances: S. 01°28'12" W. 92.47 feet to an iron pipe found; S. 87°47'04" E. 2.54 feet to an iron pipe found set at the northwesterly corner of the Layman property; thence with Layman S 00°01'25" W. 360.99 feet to an iron pipe found; thence continuing with Layman S. 05°39'34" W. 350.55 feet to an iron pipe found at the northeasterly corner of the Toole property; thence with Toole and then Ridge Manor Subdivision, N 87°28'52" W. 1006.24 feet to an iron pipe found; thence continuing with Ridge Manor N. 87°04'42" W. 1138.30 feet to an iron pipe set on the aforesaid easterly side of Robert Toad [sic]; thence with Roberts Road the following courses and distances: N 20°32'01" E. 1334.90 feet to an iron pipe found; N 00°31'25" W 498.79 feet to the point of beginning containing 62.2227 acres.

The hereinabove described property is hereby subdivided into building lots, parcels, outlets and streets as shown on the plat prepared by Ross & France, Ltd., Civil Engineering and Land Surveying, dated March 31, 1975, said subdivision to be known as, "HICKORY FARMS, Annandale District, Fairfax County, Virginia", and the parties hereto do hereby dedicate to public use the streets shown thereon and create and establish the easements as indicated on said plat.

This dedication is made with the free consent and desire of the owners of said property, and is in accordance with the Statutes of Virginia, governing the platting of land and is approved by the proper authorities as is evidenced by the endorsements on the attached plat by the proper officials of such approval.

WHEREAS, a non-stock, non-profit Association entitled, Hickory Farms Community Association, has been chartered.

WHEREAS, Hickory Farms Community Association and their assigns, by recordation of the Deed of Dedication and Declaration of Covenants, Conditions and Restrictions, accepts the duties and responsibilities imposed upon it by the protective covenants hereinafter set out, and shall use the powers granted to it by this instrument and its corporate charter to preserve and promote good order, health, safety and general welfare within the common areas.

#### ARTICLE I - DEFINITIONS

Section 1. "Association" shall mean and refer to Hickory Farms Community Association, (a non-stock, non-profit Virginia corporation) its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map of The Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of The Properties, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Declarant" shall mean and refer to Hickory Farms Limited Partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

## ARTICLE II - ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Additional land within the area under contract to be purchased by Declarant may be annexed by Declarant without the assent of Class A members within four years of the date of this instrument provided that the FHA and/or VA determine that the annexation is in accord with the general plan heretofore approved by them.

## ARTICLE III - MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separate from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

## ARTICLE IV - VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article III. When more than one person holds

such interest in any lot, all such persons shall be Members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. Class B members shall be the Declarant. The Class B members shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article III, provided that the Class B membership shall cease and determine on the happening of either of the following events, whichever occurs earlier: (a) when the total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership; or (b) on January 1, 1980.

## ARTICLE V - PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of members;
- (b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, with the assent of 2/3 of each class of membership, to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;
- (d) the right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer and unless written notice of the proposed action is sent to every member not less than 33 days nor more than 60 days in advance;
- (f) the parties hereto do hereby grant to the County of Fairfax, its agents, contractors, and employees, an easement on, over and across the streets and areas shown and designated on said attached plat as Common Area, for the purpose of performing any and all municipal functions, governmental or proprietary, which the County may find necessary or desirable to perform including but not limited to police and fire protection and trash removal, together with all other rights necessary for full enjoyment and use of the aforesaid easement. The terms and provisions of this easement shall extend to and be binding upon the successors and assigns of the parties hereto.

## ARTICLE VI - COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. By this Declaration, Class A members hereby covenant and agree to pay to the Association annual assessments or charges established by the Board of Directors of the Association. The annual assessments shall be for the same amount for every lot owned by a Class A member, and the annual assessment for every lot owned by a Class B member shall be twenty-five percent (25%) of the amount of the annual assessment for a lot owned by a Class A member. Prior to the annual assessment for the 1983 calendar year, the annual assessment for lots owned by Class A members shall not exceed \$60.00 per year per lot concomitantly, the annual assessment for lots owned by Class B members shall not exceed \$15.00 per year per lot. The assessments or charges established by the Board of Directors of the Association shall be made on an annual basis, and the Board of Directors of the Association may permit the payment thereof on a periodic basis as determined by the Board and establish due dates. The annual assessments, together with interest thereon, and costs of collection thereof, as hereinafter provided, shall be a charge on the land and be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and shall not pass to his successors in title unless expressly assumed by them. Should the Class B member occupy or rent any dwelling within this Subdivision, at that time the annual assessment shall be the same as the assessment charged to the Class A member.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area.

Section 3. Date of Commencement of Annual Assessments: Due Dates. The annual assessment provided for herein shall commence on the first day of the month following the conveyance of the first lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing, signed by an officer of the Association, setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 4. Effect of Nonpayment of Assessments: Remedies of Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 6% per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waiver or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his lot.

Section 5. Subordination of the Lien to Mortgages. The lien of the assessments as provided for herein shall be subordinate only to the lien of a first deed of trust and tax liens. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof, which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 6. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- (a) all properties dedicated to and accepted by a local public authority;
- (b) common areas;
- (c) all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE VII – RESTRICTIVE COVENANTS

1. All lots in the tract shall be known and described as residential lots and no structure shall be erected, altered, placed or permitted to remain on any residential building lot other than one detached single family dwelling not to exceed two and one half stories in height, and a private garage or carport for not more than three cars. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

2. No structure or alterations to any structure shall be permitted on any lot in this subdivision until the plans and specifications and a plan showing the location of the structure has been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.

3. All fences or enclosures shall be of wood or brick construction, or other special materials, the material and design of which must be approved by the Architectural Control Committee hereinafter named; said fences and enclosures may be constructed only in side or rear yards, and shall not extend into the area between the street and the front building restriction line. This restriction is not intended to apply to retaining walls, or walls and fences erected in front yards as part of the original community construction. This restriction shall not be construed to preclude the growth of an ornamental hedge fence which shall be kept neatly trimmed to a height of not more than three feet around the front yard of any of said lots. Any fence built on any of the above described lots shall be maintained in a proper manner so as not to detract from the value and desirability of surrounding property.

4. All lots and yards in the above described subdivision shall be maintained in a neat and attractive manner so as not to detract from the appearance of the above described development.

5. The Architectural Control Committee is composed of the general partners of Hickory Farms Limited Partnership and one other member to be appointed by them. A majority

of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At such time as houses have been constructed on all lots of this Subdivision, it shall become the responsibility of the Board of Directors of Hickory Farms Community Association, to appoint successors to serve as members of the Architectural Control Committee.

6. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representatives fail to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with. Thereafter approval shall not be required.

7. No livestock, including horses, cattle and hogs, nor fowl such as chickens and pigeons shall be kept on the property. The breeding of animals for commercial use is prohibited, but nothing contained herein shall be construed to prohibit the keeping of the usual domestic pets. No more than two domestic pets shall be kept at any one time. Pets shall be restrained and controlled as required by ordinance now or hereafter promulgated by Fairfax County, Virginia.

8. No structure shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines required by the zoning ordinances of Fairfax County, Virginia. For the purpose of this covenant, eaves, steps and open porches and uncovered porches shall not be considered as a part of building or main structure; provided, however, that this shall not be construed to permit any portion of a lot to encroach upon another lot. The right to waive violation of a building restriction line or building set back lines shall be exclusively retained by the Architectural Control Committee and duly recorded. The Committee may approve the location of said building which may be in violation of said building restriction line and/or building set back lines; provided, of course, that the violation has been reviewed and waived by the appropriate County zoning authorities.

9. Hickory Farms Limited Partnership reserves the right to install required utilities within the front, side or rear yard building restriction areas for a period of five years from the date of the sale of each lot. In each installation, after construction, Hickory Farms Limited Partnership will immediately restore the area to its former condition.

10. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

11. No boats, trailers, tent, or any structure of a temporary character, or portable vehicle other than automobiles shall stay parked forward of any dwelling for a period exceeding 7 calendar days.

12. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

13. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept, except in a sanitary container.

14. Any violation of the above covenants shall be deemed to be a continuing one until remedied, and shall be enforceable by appropriate court action instituted at any time by any one or more lot owners in the subdivision.

15. Invalidation of any one or more of the covenants herein (or a part thereof) by judgement or court order shall in no way affect any of the other covenants above set forth which shall remain in full force and effect.

16. These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of twenty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

17. Notwithstanding any other provision of this document, none of these covenants will apply to any portion of the land which may in the future be designated for recreational or general community use.

#### ARTICLE VIII – GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall be in no wise [sic] affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty five (25) years from the date this Declaration is recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less than ninety percent (90%) of lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the said Hickory Farms Limited Partnership, has caused this instrument to be executed in its partnership name by the general partners on this day, month and year first hereinabove written.

HICKORY FARMS LIMITED PARTNERSHIP

FURTHER, WITNESS the following signatures and seals

JOHN J. COLLINS, Trustee under two Deeds of Trust  
CHARLES A. TRAINUM, JR., Trustee under two Deeds of Trust  
MORTGAGE INVESTORS OF WASHINGTON Beneficiary  
WEAVER BROS., INC., Beneficiary

Consented to and approved:

HOUSING CAPITAL CORPORATION  
EUROPEAN RESERVE HOLDING CORPORATION OF LIBERIA

[Notary Seal]

**Articles of Incorporation  
of  
Hickory Farms Community Association**

In compliance with the requirement of Title 13.1, Chapter 2, of the 1950 Code of Virginia, as amended, the undersigned hereby associate to form a non-stock Association, not for profit, and to that end, set forth the following:

ARTICLE I

The name of the Association is Hickory Farms Community Association.

ARTICLE II

The Association does not contemplate pecuniary gain or profit, direct or indirect, to its members. The purposes for which it is formed are:

To promote the interest of the owners of properties within that certain tract of property to be known as Hickory Farms, located in Annandale District, Fairfax County, Virginia, described by metes and bounds as follows:

..... hereinafter referred to as "The Properties," and for this purpose:

- (a) to own, acquire, build, hold, improve, sell, convey, lease, dedicate to public use, operate and maintain recreations areas, parks, playgrounds, streets and parking areas including buildings, structures and personal property incident thereto, hereinafter referred to as "The Common Properties and Facilities";
- (b) to fix, levy, collect, and enforce payment by any lawful means of charges and assessments, against the properties;



(c) to enforce any and all covenants running with the land and restrictions applicable to The Properties in any lawful manner, and to perform all of the duties and obligations of the Association set forth in any Deed of Dedication and Declaration of Covenants, Conditions and Restrictions recorded, or to be recorded in the Clerk's Office of the Circuit Court of Fairfax County, Virginia;

(d) to pay taxes, if any, on the Common Properties and Facilities and to pay all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the properties of the Association;

(e) to borrow money, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(f) insofar as permitted by law, to do any other thing that that in the opinion of the Board of Directors will promote the common benefit and enjoyment of the residents of The Properties.

### ARTICLE III

Every person or entity who is a record owner of a fee, or undivided fee interest of any lot included within The Properties shall be a member of the Association; provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member. Ownership of the requisite property interest shall be the sole qualification for membership. Upon evidence being presented to the Board of Directors by an applicant of its ownership of a lot embraced within the aforementioned tract of ground, said applicant shall be admitted to membership.

### ARTICLE IV

The Association shall have two classes of voting membership:

Class A. Class A members shall be all those owners as defined in ARTICLE III with the exception of Class B members. Class A members shall be entitled to one vote, for each lot in which they hold the interest required for membership in ARTICLE III. When more than one person holds such interest or interests in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. Class B members shall be the developer and any successor to all or substantially all of the business of developing the subdivision to be known as Hickory Farms, in Annandale District, Fairfax County, Virginia. The Class B members shall be entitled to (5) votes for each lot in which it holds the interest required for membership under ARTICLE III, provided that the Class B membership shall cease and determine on the happening of either of the following events, whichever occurs first:

(a) when the total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership;

or

(b) on January 1<sup>st</sup>, 1980.

## ARTICLE V

The affairs of the Association shall be managed by a Board of Directors consisting of three members who shall hold office until the election of their successor or successors.

The Board Directors may, from time to time, by amendments to the By-Laws, increase the number of Directors and upon such increase the Board shall appoint successors to serve until the next meeting of the members of the Association. At the next annual meeting the Board of Directors shall be elected by the members casting votes in the proportion to which they are entitled, as set forth in ARTICLE IV.

## ARTICLE VI

The Post Office address of the initial registered office of the Association is 1415 North Court House Road, Arlington, Virginia 22216. The name of its initial registered agent is Thomas G. Mays, who is a member of the Virginia State Bar and a resident of Virginia, whose business office is 1415 North Court House Road, Arlington, Virginia, located in the County of Arlington, Virginia.

## ARTICLE VII

The Association shall exist perpetually.

## ARTICLE VIII

The Association may be dissolved only in accordance with Title 13. 1, Section 248, Code of Virginia. The disposition to be made of the assets shall be consonant with ARTICLE IX hereof.

## ARTICLE IX

Upon dissolution of the Association, the assets, both real and personal of the Association, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of Association properties shall be effective to divest or diminish any right or title of any member vested in him under the recorded covenants and deeds applicable to The Properties unless made in accordance with the provisions of such covenants and deeds.

## ARTICLE X

To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit Associations organized for the same purpose, provided that any such mergers or consolidations shall require the assenting votes cast at a duly held meeting of more than two-thirds (2/3) of the entire Class A membership, if any and more than two-thirds (2/3) of the votes entitled to be cast by members present or represented by proxy at the meeting.

ARTICLE XI

Any mortgage by the Association of the Common Properties and Facilities shall have the assenting votes at a duly held meeting of more than two-thirds (2/3) of the entire Class A membership and more than two-thirds (2/3) of the entire Class B membership, if any, and shall be in accordance with 13.1-246 of the Virginia Code.

ARTICLE XII

The Articles may be amended in accordance with the law, provided that the voting and quorum requirement specified for any action under any provisions of these Articles shall apply also to any amendment of such provisions, and provided further that no amendment shall be effective to impair or dilute any rights of members that are governed by the recorded covenants and restrictions applicable to The Properties, which are part of the property interest created thereby, provided said exemptions from amendments shall not be contrary to the laws of the State of Virginia.

ARTICLE XII

The name and address of each incorporator is:

<u>Name</u>	<u>Address</u>
Charles M. Radigan	4024 N. 40th Street, Arlington, Virginia 22207
Arthur L. Cline	2726 N. Kensington Street, Arlington, Virginia 22207
Grandal W. Solbach	7010 Hector Road, McLean, Virginia 22101

ARTICLE XIV

The names and addresses of those persons who are to act as the three initial Directors until the election of successors are:

<u>Name</u>	<u>Address</u>
Charles M. Radigan	4024 N. 40th Street, Arlington, Virginia 22207
Arthur L. Cline	2726 N. Kensington Street, Arlington, Virginia 22207
Grandal W. Solbach	7010 Hector Road, McLean, Virginia 22101

## BY-LAWS OF HICKORY FARMS COMMUNITY ASSOCIATION

### ARTICLE I

**NAME AND LOCATION.** The name of the corporation is Hickory Farms Community Association (HFCA), hereinafter referred to as the "Association". Meetings of members and directors may be held at such places within the State of Virginia, County of Fairfax, as may be designated by the Board of Directors.

### ARTICLE II DEFINITIONS

Section 1. "Association" shall mean and refer to Hickory Farms Community Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and Residents.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Clerk of Circuit Court of Fairfax County, Virginia.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 8. "Resident" shall mean and refer to any legal tenant of a home leased from an owner as defined in Section 5 herein.

Section 9. "Board" refers to the duly elected Board of Directors of the Association.

### ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. An annual meeting of the members will be held during the month of October of each year. The date, time, location, and agenda will be determined by the Board. The annual meeting shall be held for the election of directors and the conduct of such other business as may be properly brought before the meeting.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of one-fourth (1/4) of the voting membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be mailed to all owners and residents at least 15 days before such meetings. Such notice shall specify the date, time, location and agenda.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-fourth (1/4) of the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-laws. If, however, such quorum shall not be present or represented at any meeting, the Board of Directors shall have power to adjourn the meeting, and reconvene without notice other than an announcement at the meeting. At any such reconvened meeting, the presence of members or proxy holders entitled to cast one-eighth (1/8) of the votes shall constitute a quorum.

Section 5. Proxies. At all meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. No member shall be allowed to execute more than four (4) proxies per meeting except for the secretary and his vote shall be as directed by the Board. No such proxy shall be revocable, given by the member that it be revoked, except by actual notice to the officer presiding over the meeting. Any proxy shall be void if not signed by a member or by a person having authority to execute deeds on behalf of the member. All proxies shall include the member's name, address, signature, and date signed. A proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of the proxy or upon conveyance by the member of his lot.

ARTICLE IV  
BOARD OF DIRECTORS  
SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board at least five (5) Directors, all of whom must be members of the Association. The Board has the authority to add Directors as required to meet the needs of the community.

Section 2. Term of Office. At each annual meeting, the members shall elect a Board of Directors to serve for a period of one (1) year, or until their successors are elected.

Section 3. Succession. Any director may be removed from the Board by a majority vote of the members of the Association. In the event of a vacancy for any reason other than removal, a successor shall be selected by a majority vote of the remaining directors, even though this may constitute less than a quorum. Each person so elected shall serve until the next annual meeting of the Association. A vacancy occurring by reason of the removal of a director by a vote of the Association shall be filled by the Association at an annual meeting or at a special meeting called for that purpose.

Section 4. Removal of Directors. Removal of Directors shall be by a majority of the votes at any meeting where a quorum is present. Any director whose removal has been proposed shall be given at least 10 days notice of the calling of the meeting and the purpose thereof, and opportunity to be heard at the meeting.

Section 5. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for actual expenses incurred in the performance of duties.

Section 6. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Electronic communication such as email constitutes written approval. Any action so approved shall have the same effect as though taken at a meeting of the directors, and shall be recorded in the minutes of the next meeting of the Board of Directors.

## ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting.

Section 2. Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors ninety days prior to each annual meeting of the members, to serve from the day of appointment until the close of the annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations shall be made from among members of the Association.

Section 3. Election. Election to the Board of Directors shall be made by written ballot. However, the Members present at the meeting may unanimously agree that votes may be cast by another method, including election of candidates by voice vote acclamation. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held approximately monthly at such place and hour as may be fixed from time to time by the Board.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Board, or by any two directors.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Notice. Notice of the time, date and place of each meeting of the Board of Directors or of any subcommittee or other committee thereof shall be published where it is reasonably calculated to be available to a majority of the Members.

## ARTICLE VII

## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon and to establish penalties for the infraction thereof.
- (b) Suspend the voting rights and right to use the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations.
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration.
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members of the annual meeting of the members, or at any special meeting when such a statement is requested in writing by one-fourth (1/4) of the members.
- (b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- (c) As more fully provided in the Declaration to:
  - 1. Fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.
  - 2. Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period.
  - 3. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring legal action against the owner personally to pay the same.
  - 4. Take legal action to enforce the restrictive covenants.
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- (e) Procure and maintain adequate liability and hazard insurance for the Association.
- (f) Cause the Common Area to be maintained.

(g) Ensure an orderly transition of custody of the Association's books and records when members join or depart from the Board of Directors.

Section 3. Fidelity Bonds. The Board of Directors shall require that all directors, officers, trustees, volunteers, agents and employees of the Association handling or responsible for funds furnish adequate fidelity bonds or insurance. The fidelity bonds or insurance shall designate the Association as a named insured and, if obtainable, shall be written in an amount sufficient to provide protection which shall be not less than one-half the Association's estimated annual operating expenses and reserves. The premiums on such fidelity bonds or insurance shall constitute a Common Expense.

Section 4. Liability of the Board of Directors. Every member of the Board of Directors and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may become involved, by reason of his being or having been a member of the Board of Directors or officer of the Association or any settlement thereof, whether or not he is a member of the Board of Directors or officer at the time such expenses are incurred, except in such cases wherein such member or officer is found by a court of competent jurisdiction to have acted with willful misconduct or in bad faith, or willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. In addition, every such member or officer shall, in the first instance, not be liable to the Association for any conduct, omission or matters upon which they are entitled to be indemnified herein. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such member or officer may be entitled. Members of the Board of Directors or officers of the Association shall not be personally liable for contracts made by them on behalf of the Association or the members unless their conduct in such matters would not otherwise entitle them to indemnification under this Section.

## ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, a secretary, a treasurer, and such other officers as the Board may create. With exception of president and vice-president, no officer need be a member of the Board of Directors. Two or more offices may be held by the same person but the president shall not hold any other office.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this association shall hold office at the pleasure of the Board of Directors. They shall be elected annually by the Board and shall hold office for one (1) year unless they shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.



Section 5. Resignation and Removal. Any officer may resign at any time giving 30 days written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. An officer may be removed by the Board with or without cause by the affirmative vote of a majority of the entire Board.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at meetings of the Association and shall be an ex-officio member of all committees. The president must be a member of the Board of Directors. He shall have general and active management of the business of the Association subject to the control of the Board.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, shall exercise and discharge such other duties as may be required of him by the Board. The vice-president must be a member of the Board.

Secretary

(c) The secretary shall attend all meetings of the Board and Association and shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members, serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses and shall perform other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association; keep proper books of account, cause an annual audit of the Association books to be made by a public accountant at the completion of each year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

Section 9. Agreements, Contracts, Deeds, Checks, etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations shall be executed by any two of the president, vice-president or treasurer of the Association or by such other person or persons as may be designated by the Board of Directors.

ARTICLE IX  
COMMITTEES

Section 1. The Association shall appoint an Architectural Control Committee, as provided in the Declaration and a Nominating Committee as provided in these By-laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

## ARTICLE X BOOKS AND RECORDS

In compliance with the requirements of Virginia Property Owners Association Act (VPOAA), as it may be amended from time to time, the Association shall keep detailed records of receipts and expenditures affecting the operation and administration of the Association. All financial books and records shall be kept in accordance with generally accepted accounting practices. The books, records, and papers of the Association are to be subject to inspection by any Member, subject to the exclusions in the VPOAA as that Act may be amended from time to time. If a Member requests copies of the Association's books and records, the VPOAA permits the Association to impose and collect a charge, reflecting the reasonable costs of materials and labor, not to exceed the actual costs of providing such documents. The 1) Articles of Incorporation 2) Deed of Dedication and Declaration of Covenants, Conditions and Restrictions, 3) Rules and Regulations, 4) By-Laws of the Association and 5) minutes of meetings shall be made available for viewing by Members on the Association's web page.

## ARTICLE XI OPERATION OF ASSOCIATION

Section 1. Fiscal Year. The fiscal year of the Association is the calendar year; provided, however, that the fiscal year may be changed by the Board of Directors at their discretion.

Section 2. Annual Budget.

(a) On or before a date which is not less than 15 days prior to the end of each fiscal year, the Board of Directors shall adopt an annual budget for the Association for the succeeding fiscal year. The Budget shall contain an estimate of the total amount necessary to pay the cost of maintenance, management, operation, repairs and replacement of the Common Elements, and the cost of wages, materials, insurance premiums, services, supplies and other expenses which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the members of all related services.

(b) The annual budget shall contain an estimate of the amount necessary to pay the Common Expenses for the applicable fiscal year in a reasonable itemized form and a statement of the amount of the Common Expenses payable by each member. Common Expenses shall include the amounts necessary to create and maintain the reasonable reserves authorized by Section 5 herein. The Board of Directors shall send to each member, at least ten (10) days prior to the commencement of each fiscal year, a copy of the annual budget for the fiscal year.

Section 3. Assessment and Payment of Common Expenses. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. A fifty (50) dollar service charge shall be added to any delinquent bill. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate set annually by the board, and the Association may bring legal action against the Owner personally obligated to pay the same or foreclose the lien against the property. Interest, costs, and reasonable attorney's fees of any such action shall be added to

the amount of such assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 4. Year-End Accounting and Overpayments - Within 90 days after the end of each fiscal year, the Board of Directors shall send to each member an itemized accounting of the Common Expenses actually incurred for such fiscal year, together with an itemized statement of the amounts collected pursuant to the assessment adopted by the Board of Directors for such fiscal year, any delinquencies in payment of assessments, the amount of any surplus or deficit and the amount of the reserves. Common Income in excess of Common Expenses (including reserves) at the end of a fiscal year, shall be returned to the members or credited to the assessments due under the annual budget for the next succeeding fiscal year, as may be determined by the Board of Directors.

Section 5. Reserve Fund for Capital Improvement, Replacements and Major Repairs. The Board of Directors shall establish and maintain a reasonable fund for capital improvements, replacement and major repairs by providing for reserve fund(s) in the annual budget and segregating such reserve fund(s) on the books of the Association. The portion of the members' assessments paid into such reserve fund(s) shall be conclusively deemed to be contributions to the capital of the Association by the members. The fund shall be invested prudently by the Board such that it can be accessed readily, when needed.

Section 6. Special Assessments. The Board of Directors may levy a special assessment for the purpose of defraying the cost of any unexpected repair or other nonrecurring contingency, or to meet any deficiencies occurring from time to time. The fund resulting from such special assessment shall be segregated on the books of the Association and expended solely for the purposes for which it was assessed. No special assessment shall exceed fifty percent (50%) of a regular assessment without approval at a meeting of the Members.

Section 7. Expenditures. No single expenditure of funds exceed one thousand dollars (\$1,000) without approval by a two thirds (2/3) vote by the Board of Directors.

## ARTICLE XII AMENDMENTS

Section 1. These By-Laws may be amended, by a majority vote of a quorum of members present in person or by proxy at a regular or special meeting of the membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these by-Laws, the Articles shall control, and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

IN WITNESS WHEREOF, we, being the President and Secretary of the Association have hereunto set our hand this date.

President  
Secretary

Charles "Chuck" Stewart  
John Kitzmiller

October 11, 2018  
October 11, 2018

### **History**

The By-laws were enacted October 12, 1983

The By-laws were amended November 12, 1987

At the October 15, 2009, Annual Meeting, the Members increased the \$25 service charge in Article XI, Section 3 to \$50.

At the October 20, 2015, Annual Meeting, the Members amended Article IV, Section 1 from: "Number. The affairs of this Association shall be managed by a Board of seven Directors, all of whom must be members of the Association" to "Number. The affairs of this Association shall be managed by a Board of at least five (5) Directors, all of whom must be members of the Association. The Board has the authority to add Directors as required to meet the needs of the community."

At the October 11, 2018 Annual Meeting, the Members approved amendments to the following Articles: III/5, IV/6, V/3, VI/4, VII/2/(g), X, XI/5, and XII (Corporate Seal)

## **RULES AND REGULATIONS**

**Note:** On October 9, 2013, the Hickory Farms Board of Directors approved the reformatting of this document as well as various amendments. This decision was affirmed by the membership at the October 15, 2013, Annual Meeting.

### **Hickory Farms Community Association RULES AND REGULATIONS**

(Enacted December 17, 1997 and completely revised October 9, 2013)

WHEREAS, Article VII, Section 1(c) of the By-Laws directs the Board of Directors ("Board") to exercise for the Hickory Farms Community Association ("Association" or "HFCA") all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Association's By-laws, the Association's Articles of Incorporation, or the Association's Deed of Dedication and Declaration of Covenants, Conditions and Restrictions ("Declarations");

WHEREAS, Article VII, Section 1(a) of the By-Laws provides that the Board of Directors has the power to adopt and publish Rules and Regulations governing the use of the common areas and facilities and the personal conduct of the members and their guests thereon and to establish penalties for the infraction of such Rules and Regulations.

NOW, THEREFORE BE IT RESOLVED THAT the following Rules and Regulations are adopted by the Board and supersedes all prior resolutions establishing Rules and Regulations.

The Association Rules and Regulations clarify various sections of the HFCA Declarations, including Restrictive Covenants, and HFCA By-Laws, with references as appropriate. The Rules and Regulations are organized in four Resolutions:

1. Individual Property Rules and Regulations (Restrictive Covenants);
2. Common Areas Rules and Regulations;
3. General Policies Rules and Regulations;
4. Due Process Provision Rules and Regulations.

## **RESOLUTION NO. 1 - Individual Property Rules and Regulations (Restrictive Covenants)**

### **1.1 Lots, Structures, and Use of Lots** [Declarations, Article VII Restrictive Covenants, Section 1]:

- a) The restriction on structures shall apply to buildings of a permanent nature. It is not intended to apply to garden storage buildings which must be approved by the Architectural Control Committee.
- b) No home shall be used for the full time operation of a trade or business (as defined in Fairfax County Code) requiring public access and traffic of an annoying or observable nature.

### **1.2 When Approval of the Architectural Control Committee (ACC) is Required**

[Declarations, Article VII Restrictive Covenants, Section 2]:

- a) The purpose of Section 2 is to protect the desirability and thus the value of Hickory Farms property. The ACC must approve all structures, including permanently installed basketball backboards, decks, fences, hot tubs, patios, pools, garden sheds, and other structures, both attached to and separate from the existing dwelling.
- b) The ACC must also approve changes in the appearance of all structures, including color changes. Colors and styles of structures shall be in keeping with the harmony of external design throughout the Community.
- c) ACC approval is required before project construction commences. In the event structure alterations take place without the consent and notification of the Architectural Control Committee, the offending homeowner shall be notified to stop construction and an application for approval must be submitted.
- d) In the event a structure alteration is not approved, the Architectural Control Committee shall direct the homeowner to make any necessary changes to comply. If the homeowner fails to make application or make the required changes to comply, the Architectural Control Committee shall advise the Board of Directors. The Board of Directors shall initiate proceedings to force application and bring the property into compliance, up to and including monetary charges of up to \$10.00 per day plus Association court costs and reasonable attorneys' fees in obtaining a lien against the property. See the Due Process Procedures for amplifying information.
- e) Neither the ACC nor the Board of Directors may grant a waiver of the Restrictive Covenants as they relate to activities subject to the jurisdiction of the ACC, unless specifically permitted in the Declarations. For example, the prohibition against fences in the front yards cannot be waived.

### **1.3 Fences and Enclosures** [Declarations, Article VII Restrictive Covenants, Section 3]:

- a) The Architectural Control Committee will distinguish between maintenance of existing fences (which does not require approval as long as the appearance of the fence is maintained) and the addition of completely new fences or modification of style or appearance of existing fences (which does require approval).

- b) In order to protect the value and desirability of Hickory Farms property, any homeowner found to be in noncompliance with Article VII, Section 3 will be subject to action on the part of the Architectural Control Committee to bring the property into compliance, up to and including monetary charges of up to \$50.00 for a single offense or \$10.00 per day for continuing offenses plus Association court costs and reasonable attorneys' fees in obtaining a lien against the property, as authorized by VPOAA Section 55-513 and Article VII, Section 2 of HFCA By-Laws. See the Due Process Procedures for amplifying information.
- c) Wire fences are not to be built, except that fences built of approved materials such as wood may have a wire fence inside them, that is not readily visible from outside the fence, if this is necessary to control pets or for other good reason. Should the outer fence come down for any reason, the wire fence must also be taken down, or the outer fence be rebuilt.
- d) It is the responsibility of homeowners to maintain fences in good condition and appearance, consistent with Restrictive Covenants Article VII, Sections 3 and 4.
- e) Paragraphs e through m were enacted on October 15, 2009. Fences that were approved by the Architectural Control Committee and constructed before this date are not subject to these provisions. However, if such fence is replaced by a fence with a different location, height, materials, or finish after the enactment date of this paragraph, the new fence will be subject to paragraphs 1.3 e-m of these Rules and Regulations.
- f) No private lot in Hickory Farms is required to have a fence.
- g) All fences shall be subject to the prior approval of the Architectural Control Committee as to location, height, materials, and finish, and shall comply with all Fairfax County requirements.
- h) Temporary fencing is permitted only in connection with construction activities.
- i) Under the Hickory Farms Restrictive Covenants, "All fences or enclosures shall be of wood or brick construction, or other special materials." "Special materials" shall mean high quality materials that closely simulate brick or wood. Fence gates should be compatible with the fence style. In order to maintain consistency with the development of fences in the community, homeowners are encouraged to limit fence heights to between four feet and six feet and wood fence colors to natural and white.
- j) Many backyard fences facing Roberts and Burke Station Roads were constructed by the builder with a consistent style (picket) and color (natural). Although many homeowners have replaced their fences with the same style and color, homeowners are not required have uniform fences facing these roads.
- k) The Hickory Farms Community Association does not pay to construct or maintain fences on private property, nor does it assume liability for any fences constructed on private property.
- l) For the purpose of interpreting Hickory Farms Restrictive Covenant Article VII (3) under this Section 4 only, each lot has a single front yard, which is the area between the front building restriction line and the street or pipestem driveway. The front building restriction line runs along the front edge of the main entrance side of the house and continues to the property line(s). A fence may not be constructed in a front yard. On corner lots, homeowners may construct a fence between the side building restriction line and the sidewalk. Homeowners are cautioned, however, that any fence that faces a street or pipestem driveway may be subject to a height limit set by the Fairfax County code, which was four feet at the time this paragraph was implemented.
- m) The Hickory Farms Community Association will not mediate private homeowner disputes regarding fences.

**1.4 Maintaining Lots, Yards, and Carports** [Declarations, Article VII Restrictive Covenants, Section 4]:

- a) All lots and yards shall be maintained in a neat and attractive manner so as not to detract from the appearance of the Hickory Farms Community Association.

- b) All lots and dwellings shall be kept in good repair (e.g., shutters, trim, fences, siding, roof, etc. shall be maintained) and maintained in keeping with the standards of the neighborhood and development.
- c) Grass shall be mowed regularly and maintained in a neat, even manner. It is recommended that the lawn be mowed well before the average grass height is 8 inches above the ground. When the height of grass exceeds 8 inches, the Board of Directors may contact the owner or property manager to direct them to cut the grass.
- d) All curbs, driveways and sidewalks of lots shall be edged as needed to maintain a neat appearance and so that grass does not grow over curbs and sidewalks.
- e) Sidewalks shall be kept clear of obstacles (e.g., automobiles, trash receptacles, recycle bins, shrubbery, overhanging tree limbs, portable basketball hoops when not in use, etc.).
- f) Flower beds and landscaping shall be maintained in an attractive manner so as not to detract from the appearance of the neighborhood or encroach on public and common areas. Trees, shrubs, and bushes shall be trimmed on a regular basis.
- g) Automobiles shall be parked in garages, driveways or on the street, not on lawns or lots.
- h) Carports shall not be used for storage in a manner that creates an unsightly appearance.

**1.5 Membership of the Architectural Control Committee (ACC)** [Declarations, Article VII Restrictive Covenants, Section 5]:

- a) The ACC is the body created to review compliance by Hickory Farms Community Association (HFCA) residents with Article VII, Restrictive Covenants of the HFCA. The ACC provides information regarding when, where, how and what procedures must be followed by HFCA residents to make exterior improvements or changes to their property.
- b) The committee shall consist of a minimum of four homeowners (including the chairperson who is a member of the Board of Directors). The President of the Board of Directors is an ex-officio member of the committee, and will resolve voting deadlocks.
- c) The ACC's primary responsibility is to enforce the Declarations (including Restrictive Covenants), By-Laws and Rules and Regulations, thereby helping to ensure that homes in the community retain their high property values.
- d) The ACC does not advise homeowners regarding the Fairfax County building code. Homeowners are encouraged to consult with Fairfax County officials to determine if a building permit is required. The ACC evaluates the proposed project irrespective of whether the homeowner has secured building permit(s).

**1.6 Designating ACC Approval, and Cases where the ACC does not take Action within 30 days of Submittal** [Declarations, Article VII Restrictive Covenants, Section 6]:

- a) Homeowners must be able to show that the Committee did not act within 30 days to take advantage of the provision of Section 6 removing the requirement for approval.
- b) The date that plans and specifications have been submitted to the ACC shall be the date:
  - i) that the ACC or a member of the ACC received the properly completed application;
  - ii) with the necessary plans and specifications;
  - iii) and indicates receipt on a copy of the application or on a receipt form.
- c) Projects completed in circumstances where the Committee did not act within 30 days may not be subsequently challenged under other Sections of Article VII, even if they are in violation of such Sections (since Article VII, Section 6 provides that by failing to act, the ACC deems the Restrictive Covenants to have been fully complied with).
- d) It is expected and required that the homeowner will make a good faith effort to comply with the Restrictive Covenants and Rules and Regulations.

- e) A majority vote of the ACC members is needed for approval or rejection of an Application. For controversial or precedent-setting projects, the ACC may consult with the Board of Directors of the Association for a sense of the community.
- f) ACC approval is valid only for the project as described in the Application. If the homeowner deviates from the specifications in the Application, the ACC approval is not valid; the homeowner would then be required to submit a new Application. In the event a new Application was rejected, all unapproved project changes would need to be reversed at homeowner's expense and the property restored to original condition.
- g) The homeowner has one year from the date of ACC approval to complete the project. The homeowner may request one extension of the one year completion period of up to one additional year, provided that the homeowner requests the extension before the initial one year period has expired. Otherwise, the approval is null and void.
- h) The requirement in Section 6 of the Restrictive Covenants that ACC approvals or disapprovals be in writing is satisfied through email communication.
- i) Each Application shall be evaluated by the ACC, which is charged by the Association membership to consistently and equitably apply the Restrictive Covenants and Rules and Regulations in effect at the time the Application is evaluated.

**1.7 Livestock and Pets on Property** [Declarations, Article VII Restrictive Covenants, Section 7]:

- a) No livestock, including horses, cattle and hogs, nor fowl such as chickens and pigeons shall be kept on individual lots.
- b) The breeding of animals for commercial use is prohibited.
- c) Nothing contained herein shall be construed to prohibit the keeping of the usual domestic pets. No more than two domestic pets shall be kept at any one time.

**1.8 Location of Structures on any Lot** [Declarations, Article VII Restrictive Covenants, Section 8]:

- a) No structure shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set back lines required by the zoning ordinances of Fairfax County, Virginia.

**1.9 Hickory Farms Limited Partnership Reserves the Right to Install Required Utilities** [Declarations, Article VII Restrictive Covenants, Section 9]:

- a) As all lots have been developed and the Hickory Farms Limited Partnership is no longer in existence, this rule and regulation is no longer in effect.

**1.10 Restriction on Use of Temporary Structures, Tents, Trailers, etc. as a Temporary or Permanent Residence** [Declarations, Article VII Restrictive Covenants, Section 10]:

- a) The use of temporary structures or vehicles as sleeping quarters constitutes use as a residence and is prohibited.
- b) At no time shall a garage be used as a residence or sleeping quarters unless it has been legally converted according to Fairfax County Code to finished living area and been subject to approval of the Architectural Control Committee. Any such conversion must be considered by the ACC to be in harmony of external design with existing structures.

**1.11 Restriction on Parking Boats, Trailers, Tents or Temporary Structures or Portable Vehicles other than Automobiles Forward of a Dwelling for Longer than Seven Calendar Days** [Declarations, Article VII Restrictive Covenants, Section 11]:



- a) For purposes of definition, a commercial truck classified as such by the Department of Motor Vehicles is not an automobile. Further, a commercial vehicle as regulated here is defined in Fairfax County Code, and does not include light duty vehicles and pickup trucks with commercial markings.
- b) HFCA shall adhere to Fairfax County Code, which prohibits parking commercial vehicles on residential roads except when they are necessary to perform work or service.
- c) Storage containers and portable storage units may be kept on a homeowner's property for no more than seven (7) calendar days. Such storage containers are only for the personal use of the resident; business or trade uses are prohibited.

**1.12 Sign Display on any Lot** [Declarations, Article VII Restrictive Covenants, Section 12]:

- a) No signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

**1.13 Restriction on Containing and Dumping Rubbish, Trash, Garbage, Yard Debris, etc.**

[Declarations, Article VII (Restrictive Covenants), Section 13]:

- a) Garbage shall be set out only on trash collection days, or the evening prior to scheduled pickup, and shall be removed from street-side on the collection day. This is to maintain an attractive appearance and to avoid attracting rats and raccoons. Sanitary containers shall otherwise not be forward of the house.
- b) No dumping of yard debris or trash is allowed in common areas. Common areas are defined in Regulation 1.
- c) Yard debris shall be recycled or set out for collection. Large piles of yard debris shall not be kept on individual lots. (Note: this does not prohibit the maintenance of a neat compost pile).

**1.14 Violation of Restrictive Covenants** [Declarations, Article VII Restrictive Covenants, Section 14]:

- a) Violations of the Restrictive Covenants will be addressed in accordance with the Due Process Procedures of Resolution No. 4.
- b) Remedies for violations will be consistent with the By-Laws, the Virginia Property Owners' Association Act and will be in accordance with the Due Process Procedures of Resolution No. 4.
- c) Homeowners are responsible for violations occurring on their property. If the property is leased to a tenant, homeowners should ensure tenants are familiar with the provisions of the Restrictive Covenants and Rules and Regulations, but this will not relieve the homeowners of responsibility for the condition of their property or responsibility to comply with the Restrictive Covenants and Rules and Regulations.

**1.15 Enforcement of Restrictions, Conditions, Covenants, Reservations, Liens, and Charges** [Declarations, Article VIII, Section 1]:

- a) These Rules and Regulations are enforceable under this section.
- b) Enforcement will be consistent with the By-Laws, the Virginia Property Owners' Association Act (VPOAA) and will be in accordance with the Due Process Procedures of Resolution No. 4.
- c) A clarification of the second provision of Article VIII, Section 1 follows. In cases where by inaction on the part of the ACC for a period of 30 days after submittal of an architectural request, resulting in neither an approval nor a rejection, a homeowner proceeded with a

project that would be considered to be in violation of the Restrictive Covenants, the Restrictive Covenant is considered to have been met in accordance with Article VII, Section 6 of the Declaration, and may not be subsequently enforced against that homeowner for the project specified in the Application. The Restrictive Covenant shall remain in force for all other homeowners, and all other existing and future projects.

- d) By law, the Board of Directors and Architectural Control Committee are not authorized to grant exceptions or exemptions to the Restrictive Covenants, the By-Laws or the VPOAA.

**1.16 Changes to Declarations (including Restrictive Covenants) [Declarations, Article VIII General Provisions, Section 3. Amendment]**

- a) The Declarations covenants and restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be properly recorded.

**RESOLUTION NO. 2 - Common Areas Rules and Regulations**

**2.1 Use of the Common Areas and Facilities [By-Laws, Article VII, Section 1.(a)]:**

- a) Common areas are made up of all grounds except for residential lots, streets and sidewalks. The Board of Directors will act for the Association in authorizing uses of the common grounds as discussed below.
- b) The common grounds are for the use of the residents and their guests only. The Association has the right to limit the number of guests.
- c) No motorized vehicles are permitted on the Common Grounds at any time, with the exception of authorized maintenance vehicles such as lawnmowers and tractors maintaining the grounds.
- d) No unauthorized removal of plants, trees or shrubbery is permitted.
- e) No dumping, littering (including grass clippings) or posting signs or announcements is permitted.
- f) The Common Grounds shall not be used for private storage or business purposes. Personal items may not be left in the Common Areas. The Association shall not be liable for any damage to personal items left in the Common Areas, including damage in the course of resident activities or maintenance. After use, residents are to leave the Common Areas in good, trash-free, undisturbed condition.
- g) No unauthorized private gardening or planting is permitted.
- h) The discharge of firearms, bows and arrows, and pellet guns on, over, or into the Common Areas is strictly prohibited.
- i) Open fires are prohibited in the Common Areas. This includes the use of cook pits, freestanding metal fire pits, or permanent or temporary fireplace fixtures. Portable propane or charcoal grills are permitted for short term day use provided they do not damage Common Area vegetation.
- j) The discharge of fireworks on, over, or into the Common Areas is prohibited.
- k) Fairfax County Leash and Pet Control laws shall be strictly adhered to in Common Areas.

**2.2 Maintenance of trees in the Common Areas [By-Laws, Article VII, Section 1.(a)]:**

- a) The Hickory Farms Community Association (HFCA) only maintains trees that are located in the Common Areas. Tree maintenance on private property is the responsibility of the homeowner.

- b) The HFCA will remove or prune trees only if they pose a danger to passers-by or nearby property. The exception is for Common Area ornamental trees, which may require these services to maintain their beauty.
- c) For a tree whose trunk is located within the Common Area, a homeowner may prune the tree or grind its roots up to the property line, provided that doing so does not jeopardize the life of the tree. For a tree whose trunk lies on the property line, the homeowner may deal with the tree as if it were their own, under two conditions: 1) the homeowner must notify the Common Area Coordinator before the tree is pruned or removed, and 2) if the tree is removed by the homeowner, it is their responsibility to dispose of the wood and debris and not leave it in the Common Area. Otherwise, homeowners are not authorized to perform maintenance on any tree located in the Common Area without prior approval of the Board of Directors.
- d) A tree that is deemed by the Board of Directors to be a danger to passers-by or nearby property will be removed or pruned as soon as possible by a licensed and insured tree removal company.
- e) The HFCA does not grind stumps of trees in Common Areas, unless they are in a location where the stump would hinder passers-by, cause property damage, involve ornamental trees, or obstruct a HFCA maintained path.
- f) The Board of Directors will use its best efforts to obtain multiple bids for tree work estimated to exceed an amount equal to four home annual dues payments.
- g) If a tree falls or is taken down within the Common Area, it is the preference of the HFCA to leave the tree where it falls, unless it disturbs paths, sidewalks, streets, sledding areas, ornamental areas, or mowed grassy areas. If the tree needs to be cut up, the HFCA preference is to cut the tree into smaller logs and leave the wood and brush in the general vicinity, where homeowners may scavenge the wood for firewood.
- h) Any Common Area tree that is deemed to require maintenance or replacement as a result of neglect or willful damage by a resident will be repaired or replaced by the HFCA with all costs paid by that resident.
- i) The Common Areas Coordinator may authorize tree maintenance if, in the opinion of the Common Areas Coordinator, there is a danger to passers-by or property, and the estimated cost is no more than four home annual dues payments. Otherwise, the Board of Directors must authorize maintenance.
- j) A homeowner may petition the Board of Directors, through the Common Areas Coordinator, to request pruning or removal of a tree located in a Common Area, to be paid for by the HFCA. Such petition must include the location of the affected tree, the work to be done, the reason for doing the work, and photographs of the affected tree. If the homeowner is asked to provide a written opinion by a certified independent arborist explaining why the tree is a danger to passers-by or property, the homeowner will provide such opinion at their expense. The homeowner has the right to address the Board of Directors and make a case for the project prior to a vote.
- k) A homeowner may request that the Board of Directors remove or prune a tree located in a Common Area at their own expense. The request must include photographs of the affected tree, a statement of the proposed action, and a signed statement accepting all liability for any damages which might result from this proposed action. The request must also include a statement signed by all neighbors within 75 feet of the affected tree acknowledging their understanding of and consent to the proposed action. Once all of these conditions are met, the Board of Directors will vote on the request. If the work is approved, the homeowner will pay HFCA the estimated cost in advance, the Common Areas Coordinator will arrange for the work to be done, and HFCA and the homeowner will settle up after the work is completed.

- l) If a tree located in a Common Area, or a portion of such tree, causes damage to a homeowner's property or structure, it is generally deemed an "Act of God" under Virginia law, and the homeowner is responsible for cleanup of the tree up to the property line and the repair of their property. Likewise if a tree located on private property falls on a Common Area as a consequence of an "Act of God," the HFCA will deal with the tree and any consequential damage to Common Area property, under the provisions of these Rules and Regulations, up to the property line. Residents are encouraged to carry adequate homeowners insurance on their property.
- m) The procedures in this Section 2.2 also apply to other Common Areas vegetation such as shrubs.

**RESOLUTION NO. 3 - General Policies Rules and Regulations**

**3.1 General Policies:**

- a) It is the policy of the Association to maintain a cash balance approximately equal to the Association's annual expenses. The purpose of the cash balance is to provide for expenditures that exceed the Association's regular annual expenses, such as significant levels of Common Areas maintenance and path repair or replacement. The fund shall be invested prudently by the Board of Directors in an insured account such that it can be accessed readily, when needed.
- b) When a Hickory Farms lot is sold, the Virginia Property Owners' Association Act requires that the Association inform the purchaser through a disclosure letter of "improvements or alterations to [the] property that are in violation of the Restrictive Covenants or Rules and Regulations." In order to comply with the law, the Association shall report all violations to the purchaser in such a disclosure letter.
- c) Under the HFCA By-Laws and the Virginia Property Owners Association Act, the Board of Directors has authority to enact Rules and Regulations for the Association. However, it is the policy of the HFCA that the Board of Directors shall obtain homeowner approval before such revisions to the Rules and Regulations are enacted.

**RESOLUTION NO. 4 - Due Process Procedures Rules and Regulations**

(Enacted December 17, 1997)

WHEREAS, Article VII, Section 1(b) of the By-Laws provides that the Board of Directors has the power to suspend the voting rights and right to use of the recreational facilities of a member for infraction of published Rules and Regulations after notice and hearing and for a period not to exceed sixty days; and,

WHEREAS, Section 55-513 of the Virginia Property Owners' Association Act ("Act") provides the Board of Directors the power, to the extent provided in the Declaration or rules adopted pursuant thereto, to (1) suspend an owner's right to use facilities or non-essential services offered by the Association for nonpayment of assessments to the extent that access to the lot through the common areas is not precluded and (2) assess charges against owners for violations of the Declaration or Rules and Regulations as adopted pursuant thereto for which the owner or his family members, tenants, guest or other invitees are responsible; and,

WHEREAS, Section 55-513 of the Act further provides that certain procedures must be followed before such charges may be assessed, including a hearing after proper notice; and,

WHEREAS, the Board of Directors of the Association recognizes that orderly procedures are necessary for the assessment of charges for violations of the Association Documents or of the Rules and Regulations promulgated pursuant thereto; and ,

WHEREAS, the Board of Directors considers that the Architectural Control Committee (“ACC”) shall be the tribunal before which hearings are held, as contemplated in the Act and the By-Laws; and,

WHEREAS, for the benefit and protection of the Association and of the individual owner, the Board deems it necessary and desirable to establish and operate by procedures to assure due process in cases where there is a question of compliance by an owner with provisions of the Act, the Association Documents (Declaration and By-Laws) or Rules and Regulations promulgated pursuant thereto, thereby minimizing the necessity of seeking action through a court of law,

NOW, THEREFORE, BE IT RESOLVED THAT the following procedures are adopted by the Board, and that this resolution shall serve as Resolution No. 4 and supersedes all prior resolutions establishing due process procedures.

#### **4.1 VIOLATIONS OF THE VIRGINIA PROPERTY OWNERS’ ASSOCIATION ACT, ASSOCIATION DOCUMENTS, COVENANTS AND RULES AND REGULATIONS**

##### **A. Initial Actions to Secure Compliance.**

Any owner, officer or agent of the Association may request that an owner cease or correct any act or omission which appears to be in violation of the Act, the Association Documents (including the Restrictive Covenants) or the Rules and Regulations promulgated pursuant thereto.

In the case of disputes between owners regarding activities within the lot or the appurtenant limited common area, if any, the Association will generally not become involved in the dispute or act on a complaint unless two or more persons have complained in writing.

##### **B. Written Complaint.**

Any owner or resident may initiate the enforcement process by filing a written complaint with the Board of Directors (Board) or the Architectural Control Committee (ACC). The ACC shall forward such complaints to the Board for consideration. The complaint need not be in any particular form. The complaint shall include a concise statement of charges setting forth in clear language the specific act(s) or omission(s) with which the offending party is to be charged. The complaint shall be as specific as possible with respect to times, dates and places and persons involved. All residents who file a complaint must sign and date the complaint.

##### **C. Preliminary Investigation.**

Upon receipt and consideration of the complaint, a member of the Board or the ACC may make a preliminary investigation as to the validity of the complaint. If the condition has been

corrected, or the complaint is insufficient on its face, the Board shall respond in writing to the complaining person that the matter has either been resolved or cannot be pursued.

#### **D. ACC Authority For Further Action.**

If further action is deemed necessary by the Board of Directors, the Board shall direct the ACC to carry out the appropriate sections of these Procedures. The ACC is authorized to hold hearings, recommend remedies, and take such other actions as are delineated in these Procedures, keeping the Board informed. Remedies recommended must be approved by the Board of Directors before they may take effect.

#### **E. Notice of ACC Hearing.**

The ACC shall mail a written notice by certified mail, return receipt requested, to the alleged offender at the alleged offenders' address listed on the records of the Association and to the property address, if the record address is different. If the alleged offender is a tenant, a copy of the notice required under this part shall also be mailed by certified mail, return receipt requested, to the owner of the lot where the alleged offender resides.

If the violation is not of an urgent nature, as determined by the ACC, an informal notice may be sent prior to the certified notice, substantially in the form attached as Exhibit A to this Resolution.

Written notice to an alleged offender shall be substantially in the form attached as Exhibit B to this resolution and shall:

- a) Include a copy of the complaint or complaints;
- b) Advise the alleged offender of the nature of the offense and the specific provision within the Association documents or Rules and Regulations which have allegedly been offended;
- c) State that prior to the imposition of a monetary charge, the alleged offender has the opportunity to be heard and to be represented by counsel;
- d) Describe the remedies available;
- e) State the number of days by which corrective action should begin or be completed in order to preclude the imposition of a remedy and/or charge.

Notice provided pursuant to this Part shall be provided at least fourteen days prior to the hearing, if requested, and prior to imposition of any monetary charge in accordance with Section 55-513 of the Act.

#### **4.2 REMEDIES.**

The Board of Directors of the Association hereby establishes the following remedies in connection with complaints against owners relating to alleged violation of the Act, the Association Documents (including Restrictive Covenants) and Rules and Regulations:

- a) Assess charges against any owners upon violation of any of the Association Documents (including Restrictive Covenants) and Rules and Regulations promulgated thereto.
- b) The amount of the charges so assessed shall not exceed the amounts authorized by the Association Documents (including Declarations, By-Laws and Rules and Regulations) and the VPOAA, which currently allows a charge not to exceed fifty dollars for a single offense or a charge of ten dollars per day for any offense of a continuing nature.

- c) If the rule violation is nonpayment of an assessment or charge, suspend an owner or tenant's right to use facilities or non-essential services offered by the Association to the extent that access to the lot through the common areas is not precluded, for a period not to exceed sixty days.
- d) Suspend an owner's voting rights.

### **4.3 HEARING GUIDELINES.**

The remedies described in Part 4.2 may not be pursued by the Association until an opportunity for hearing before the ACC. The following guidelines apply to such hearing procedures:

#### **A. Written Notice of ACC Hearing Sent.**

The ACC shall send a written notice mailed by registered or certified mail, return receipt requested, at least fourteen days prior to the hearing, to the owner, advising the owner of the right to contest the complaint at a hearing before the ACC. The notice shall be in the form specified in Part 4.1.E of this Resolution and Exhibit B to this Resolution.

#### **B. Notice Contents.**

Such notice shall advise the owner of the date, time and location of the hearing, of the owner's right to be represented by counsel, and of an earlier date, at least seven days following the date of the notice, by which the alleged offender must, by written notification to the Association, make a request for a hearing to be conducted on a date other than as specified in the notice. This request may be granted by the Chairman of the ACC if reasonable and satisfactory justification for rescheduling the hearing is present. The ACC shall set all hearing dates at its discretion.

#### **C. Failure to Appear.**

If no response is received by the Association from the alleged offending party by the hearing confirmation date, or if the owner fails to attend the hearing without providing reasonable and satisfactory explanation, the alleged offender shall be deemed to have waived the right to attend the hearing.

#### **D. Evidence and Testimony.**

At the hearing, the ACC may hear testimony of witnesses and/or the presentation of documentary evidence to determine if the unit owner is in violation of the Association documents (including Restrictive Covenants) or Rules and Regulations of the Association. The ACC's determination shall be based on evidence sufficient to the ACC to establish that the violation did in fact occur. In the case of a violation of the Association Documents (including Restrictive Covenants) or Rules and Regulations, however, the mere existence of a complaint shall not be sufficient to establish that a violation occurred. The owner who has been charged shall have the right to be represented by counsel at any such hearing, to cross-examine witnesses, to call any witnesses and to present any documentation or evidence relative to the allegations in the complaint. The ACC is the sole arbiter of the credibility of witnesses and evidence presented at the hearing.

#### **E. Decision of the ACC.**

Following presentation of evidence, the ACC shall deliberate, in executive session, if appropriate, to determine whether satisfactory proof of the existence of a violation of the Association documents (including Restrictive Covenants) or Rules and Regulations exists and, if so, what the recommended action, if any, should be. The ACC may attempt to resolve the situation without recourse to authorized remedies of Part 4.2 of this Resolution. The ACC may recommend to the Board assessment of a monetary charge or suspension of use of facilities and non-essential services whether the alleged offender is present or not.

**F. Written Notice of Decision and Board Review Sent.**

Notice of the decision of the ACC shall be mailed to the alleged offender by certified mail within ten business days of the hearing. The ACC shall send a written notice mailed by registered or certified mail, return receipt requested, at least fourteen days prior to the Board Review, to the owner, advising the owner of the right to appeal the ACC decision at a hearing before the Board. The notice shall be in the form specified in Part 4.1.E of this Resolution.

**G. Board Review.**

In the event the ACC, after this hearing, recommends assessment of a charge or suspension of use of facilities or non-essential services offered by the Association, the Board shall meet to review and approve or disapprove the ACC recommendation. The owner will be invited to attend the review to appeal the ACC decision. Following review, if the Board approves the ACC decision, it shall promptly act on such recommendations, which shall not be effective until a motion relating thereto is duly adopted by the Board. The minutes of the Board meeting at which such action is taken shall contain a record of the motion, the basis of the motion, which may consist of the recommendation of the ACC, a statement of the imposed remedies and proof that notice and an opportunity to be heard were provided by certified mail to the offending party. The Board shall then notify the owner in writing of the amount of the assessed charge with a request for payment within thirty days, or of the nature of the suspension of rights.

In the event an assessed charge is not timely paid, the owner's account shall be deemed delinquent and the Board of Directors shall be entitled to pursue all remedies available to it in the collection of delinquent accounts, including court action. In the event the suspension of rights is not honored, the homeowner shall be deemed in violation of the Association Documents and the Board of Directors shall be entitled to pursue all remedies available to it to enforce the suspension.

**Exhibit A - Resolution No. 2**

REQUEST FOR VOLUNTARY COMPLIANCE  
HICKORY FARMS COMMUNITY ASSOCIATION  
(date)

Owner/Resident

\_\_\_\_\_  
Fairfax, VA 22032

Re: Hickory Farms Community Association – Request for Voluntary Compliance



Dear Owner/Resident:

In accordance with the provisions of the Due Process Procedure for Hickory Farms Community Association, Resolution # 4, a complaint has been filed against you for violation of [*describe the violation together with reference to the specific Rule violated*]. Our initial investigation indicates that the above-described behavior is in violation of that rule. On behalf of the Board of Directors of the Association, this letter is to request voluntary cooperation in resolving this complaint. In order to address this complaint, we ask that you [*insert requested action*].

Please call the Chairman of the Architectural Control Committee [*name*] if you have questions concerning this matter. We appreciate your cooperation and assistance in resolving this complaint. Please note that if appropriate action is not taken, it may be necessary to pursue additional enforcement procedures in accordance with the Association's policies and procedures.

Sincerely,

Hickory Farms Community Association

By: \_\_\_\_\_

Cc: \_\_\_\_\_, President

\_\_\_\_\_, Vice President

**Exhibit B - Resolution No. 2**

NOTICE OF HEARING  
HICKORY FARMS COMMUNITY ASSOCIATION  
[date]

Owner/Resident

\_\_\_\_\_  
Fairfax, VA 22032

Re: Hickory Farms Community Association – Notice of Hearing

Dear Owner/Resident:

You are hereby notified that, in accordance with Resolution No. 4, Due Process Procedures, for Hickory Farms Community Association, a hearing will be held before the Architectural Control Committee (ACC) for Hickory Farms Community Association, on [*date*], at [*time*], in [*location*]. The scheduling of this hearing is based on the enclosed complaint.

You may be present at this hearing and may be, but need not be, represented by legal counsel. You may present evidence and will be given an opportunity to cross-examine any witnesses offering information in the matter.

You may review the Association Documents which are relevant to your case, along with a list of the witnesses who may be testifying against you, before the hearing. Please call [*name of ACC member or Chairman*] for an appointment if you wish to do so.

If you wish to admit to the complaint in whole or in part, or if you wish to waive your right to a hearing as stated above, you are requested to inform the Chairman of the ACC [*name*] in writing, within five days following receipt of this notice. If you wish to attend the hearing as scheduled, or to designate another person to appear on your behalf, it is suggested that you inform the Chairman of the ACC, in writing, within five days following receipt of this correspondence.

You may inform the Chairman of the ACC, in writing, as set forth above, that you object to the complaint on whatever grounds you deem fit including, but not limited to, the belief that the complaint does not charge a violation of an applicable rule (giving the reason therefore) or that the complaint is so vague or indefinite that you cannot adequately respond without being furnished more specific information. Whatever the grounds, you may, in addition, file with the ACC a written statement setting forth your side of the case. Your response under this paragraph shall be deemed to constitute your notice of defense to the ACC.

If you can show good cause as to why you cannot attend the hearing as scheduled, please advise the undersigned within seven days of the date of this notice so that a convenient date may be set for such hearing. If you have questions, please contact [*name*] at [*phone number*].

Sincerely,

Hickory Farms Community Association

By: \_\_\_\_\_

cc: \_\_\_\_\_, President

\_\_\_\_\_, Vice President

### **History**

Amendments to the October 13, 2013, version of the Hickory Farms Rules and Regulations:

At the October 20, 2015, Annual Meeting the Board of Directors amended, and the Members affirmed, Article 1.11 (c) from: "Self-storage containers and portable storage units, including so-called storage pods, may be kept on a homeowner's property for no more than thirty (30) consecutive days. This period may be extended to a later date, as approved by the Board of Directors for good cause. Such storage containers may only be for the personal use of the resident; business or trade uses are prohibited." to: "Storage containers and portable storage units may be kept on a homeowner's property for no more than seven (7) calendar days. Such

storage containers are only for the personal use of the resident; business or trade uses are prohibited.”

**[15] Any approved minutes of the board of directors and association meetings for the six calendar months preceding the request for the disclosure packet;**

See <https://hickoryfarms.org/meeting-minutes>

**[16] The notice given to the lot owner by the association of any current or pending rule or architectural violation;**

See Part 1 of this Disclosure Packet.

**[17] A copy of the fully completed form developed by the Common Interest Community Board pursuant to § 54.1-2350;**

See Part 1 of this Disclosure Packet.

**[18] Certification that the association has filed with the Common Interest Community Board the annual report required by § 55.1-1835, which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing.**

Filing Number 0550-003417

Certification Expires 04-30-2021

The certificate is in the possession of the Association's [Treasurer](#)

**[19] A statement indicating any known project approvals currently in effect by secondary mortgage market agencies.**

None

**[20] The association complaint procedure required by 18 VAC 48-70-60 and pursuant to 18 VAC 48-70-40 and 18 VAC 48-70-50.**

**Hickory Farms Community Association  
Association Complaint Form**

This complaint form is required by Virginia's Office of the Common Interest Community Ombudsman (Ombudsman). Please visit the [Ombudsman's web site](#) to learn more about the specific kinds of complaints that may be submitted using this form. The Board of Directors (HFCA Board) of the Hickory Farms Community Association (Association) encourages its members (i.e., homeowners) to resolve complaints informally and only use this formal procedure as a last resort.

Pursuant to Chapter 29 of Title 55 of the Code of Virginia, the HFCA Board has established this complaint form for use by Association members and others who wish to file a complaint with the Association regarding the action, inaction or decision by the HFCA Board that the complainant believes is inconsistent with applicable Virginia laws and regulations. For other types of complaints such as violations of the Hickory Farms Rules and Regulations or the Hickory Farms Deed of Dedication and Declaration of Covenants, Conditions and Restrictions, please use the Due Process/Complaint procedures contained in the Hickory Farms Rules and Regulations after you have attempted to resolve the issue informally. All of these documents may be viewed at [www.HickoryFarms.org](http://www.HickoryFarms.org).

Please describe the complaint in the area provided below, as well as the requested action or resolution of the issues described in the complaint. Please include 1) references to the specific facts and circumstances at issue and the 2) specific provisions of Virginia laws and regulations that support the complaint (for example, the [Virginia Property Owners Association Act](#)). Attach any supporting documents, correspondence, and other materials related to the complaint.

Complaint: [Insert complaint text directly below, or say that you are attaching a paper copy to this complaint form]

Date Submitted:

Your Name:

Address:

Telephone:

Email Address:

The HFCA Board prefers that you cut and paste an electronic version of this complaint form and email your complaint to the HFCA President, who is identified on the [Hickory Farms Web Page](#). Alternatively, please deliver the complaint in person to the HFCA President. If you mail the complaint to the Association's post office box (this is not recommended as it may delay delivery receipt by the President), please telephone the HFCA Treasurer to arrange pickup.

The [Common Interest Community Ombudsman's regulations](#), which are available at the Ombudsman's web site, govern the processing of your complaint. Please familiarize yourself with those regulations before submitting your complaint.

If, after consideration and review of the complaint, the HFCA Board issues a final decision denying your request, you have the right to file a Notice of Final Adverse Decision with the Common Interest Community Board (CICB) in accordance with the [regulations promulgated by the CICB](#). The Notice shall be filed within 30 days of the date of the Final Adverse Decision, shall be in writing on forms provided by the [Ombudsman](#), shall include copies of any supporting documents, correspondence and other materials related to the decision, and shall be accompanied by a \$25 filing fee. The Ombudsman may be contacted at:

Office of the Common Interest Community Ombudsman  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400  
Richmond, VA 23233  
804-367-2941  
[CICOmbudsman@dpor.virginia.gov](mailto:CICOmbudsman@dpor.virginia.gov)

Note: This document follows the sample complaint form suggested by the [Office of the Common Interest Community Ombudsman](#).

Approved by the Hickory Farms Board of Directors December 2012