

2009

**BYLAWS
OF
EVERGREEN FARM HOMEOWNERS ASSOCIATION, INC.**

Original Bylaws: September 28, 1986
Bylaws Amended: July 30, 1995; June 3, 1996; October 2000; October 2002;
October 2003; August 31, 2004; August 27, 2005; August 25, 2007;
August 29, 2009

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**BYLAWS
OF
EVERGREEN FARM HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I

NAME AND LOCATION

The name of the corporation is Evergreen Farm Homeowners Association, Inc., hereinafter referred to as the "Association." The principal office of the corporation shall be P.O. Box 1172, Clyde, North Carolina, but meetings of members and directors may be held at such places within the State of North Carolina, County of Haywood, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Evergreen Farm Homeowners Association, Inc., its successors and assigns. The Association shall also have all the powers to which it is currently entitled under Chapter 47F of the North Carolina General Statutes.

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. The Common Area shall consist of all land which is not included within a numbered lot as shown on said plat of survey by Gibson Land Surveying, including, but not limited to, subdivision roads.

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. If ownership of any lot changes, the selling Owner must notify the Board of Directors.

Joined Lots: If an Owner owns two or more adjacent Lots for which there are separate assessments, he/she may combine the Lots by merging them into one Lot. To do so, the Owner must make the request in writing to the Board of Directors. *If approved, the Owner is then responsible for placing a clause on the deed or other document recorded with the register of deeds stating the conditions of the merge i.e., the clause should contain a phrase stating that if the deed is later divided a penalty of up to four (4) years back assessments would be levied against the selling Owner for the portion of the Lots broken from the deed.* Proof of the deed recording clause must be submitted to the Board of Directors. From that point on, the Lots will be considered as one, and the merged Lot will be charged with only one assessment and will be entitled to only one vote.

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 Register of Deeds of Haywood County, North Carolina.

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

Section 8. "In Good Standing" shall mean an Owner/Member who is current i.e., not overdue or delinquent for more than sixty (60) days) with their annual assessments, fees, and other charges. The sixty (60) days shall be calculated from the date due as recorded on the invoice for the charge.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meetings. The annual meeting of the Members shall be held in August of each year on a date designated by the Board of Directors.

Section 2. Called Meetings. Called 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 ($\frac{1}{4}$) of the Members In Good Standing. The normal three (3) week notice described in the following section may be waived if the Board of Directors decides that "time is of the essence."

Section 3. Notice of Meetings. Written notice of the regular annual meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least three (3) weeks before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a called meeting, the purpose of the meeting. All out of town Lot Owners shall be provided at least three (3) weeks notice prior to the annual or called meeting with an absentee ballot stating the specific issues open for referendum. Homeowners or Lot Owners who live locally may request from the secretary an absentee ballot prior to the meeting if they are unable to attend.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, 10 Lot Owners In Good Standing shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting, until a quorum as aforesaid shall be present or be represented. Each Lot carries one vote and one vote only. A merged Lot will be treated as one Lot since it is shown as such on the deed and since they pay only one assessment. In the event a homeowner owns multiple Lots which are not combined, each Lot will carry one vote.

Section 5. Proxies. At all meetings of Members, each Member In Good Standing may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance of his or her Lot.

ARTICLE IV
BOARD OF DIRECTORS
NUMBER AND TERM OF OFFICE

Section 1. Number of Directors. The affairs of this Association shall be managed by a Board of five (5) directors, who shall be Members of the Association who are In Good Standing. Only one record Owner of any Lot shall be entitled to hold a position as director or officer of the Association in any said calendar year.

Section 2. Term of Office. At each annual meeting, the Members shall elect five (5) directors for a term of one year. Directors may be re-elected for successive terms.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members In Good Standing in the Association. In the event of death, resignation, or removal of a director, his/her successor shall be elected by the remaining members of the Board and shall serve for the unexpired term of his/her predecessor. A director shall be removed by the remaining directors if during the term of office he/she is no longer In Good Standing in the Association.

Section 4. Compensation. No director shall receive compensation for any service he/she may render to the Association; however, any director may be reimbursed for his/her actual expenses incurred in the performance of duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a Board of Directors meeting by obtaining the written or verbal approval of all the directors. Any action approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V
NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nominations. Nominations for election to the new Board of Directors at the annual meeting shall be made by the outgoing Board of Directors who shall constitute the Nominating Committee and who will also certify that those being nominated are In Good Standing in the Association. Other nominations will be accepted from the floor. It will be the responsibility of the secretary and treasurer then to certify prior to the election that those being nominated from the floor are In Good Standing.

Section 2 Election: Election to the Board of Directors shall be by showing of hands. At such election, the Members In Good Standing or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these Bylaws. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI
MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held as needed, but no less than once per quarter, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Called Meetings. Called meetings of the Board of Directors shall be held when called by the president of the Association, or by any three (3) directors, after not less than three (3) days notice to each director.

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.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have 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 of the recreational facilities of a Member during any period in which such member is not in Good Standing in the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (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 by other provisions of these Bylaws, 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 two (2) consecutive regular meetings of the Board of Directors; and
- e) employ a manager, an independent contractor, collection agency, attorney, or such others 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 at the annual meeting of the Members, or at any called meeting, or when such statement is requested in writing by one-fourth (1/4) of all Members who are entitled to vote and are In Good Standing in the Association. The statement at the annual meeting shall include a list for the year of all court filings and/or other legal actions and results as well as a listing of all Members who have not paid their yearly assessments and of those who are not considered in Good Standing as outlined previously;
- 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 annual assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period;

- (3) send written notice of other assessments approved by the Board of Directors or the Members;
 - (4) file liens, take action in Small Claims Court and/or other legal actions against Owners/Members and Property for which assessments are not paid within sixty (60) days of the invoice due date and for other fees and charges that are overdue for sixty (60) days or more from the invoice due date;
 - (5) foreclose the lien in Superior Court against any Property for which assessments are not paid within sixty (60) days of the invoice due date.
- d) issue, upon request by any person, a certification setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certifications. If a certification states an assessment has been paid, such certification shall be conclusive evidence of such payment
 - e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
 - f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
 - g) cause the Common Area to be maintained.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president, vice president, secretary, treasurer, and chair of the Architectural Review Committee, who also shall constitute the Board of Directors, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of the five (5) officers who also make up the Board of Directors shall take place at the annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Members in Good Standing and each shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed, or otherwise be disqualified to serve. The officers may be reelected and serve successive years. In the event there is a new president, the outgoing president will be requested to sit in on the first four (4) meetings of the new board as an advisor.

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 be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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/she replaces.

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

- a) **President:** The president shall preside at all meetings of the Board of Directors, the annual meeting, and any called meetings of the Members; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and shall co-sign all checks and promissory notes.
- b) **Vice President:** The vice president shall act in the place and stead of the president in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.
- c) **Secretary:** The secretary shall record the votes and keep the minutes of all Board, annual and called meetings; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings; keep appropriate files and records for each Owner/Member; file any and all legal and/or court documents as required by the Board; assist the treasurer in certifying that those nominated for the Board of Directors/Officers are In Good Standing; prepare correspondence on behalf of the Association; establish contact with realtors listing homes and/or property for sale and furnish them with copies of the Bylaws, Declaration and appropriate information; and perform other duties as required by the Board of Directors.
- d) **Treasurer:** The treasurer shall accept mail on behalf of the Association and deposit monies received by the Association; write checks for the Association according to guidelines and procedures established by the Board; maintain proper books for each Owner/Member account; cause appropriate invoices to be forwarded to the Owner/Member for any and all assessments or other fees; notify the Owner/Member of overdue accounts on a monthly basis; keep the Board of Directors up to date on all accounts and provide time frames for those overdue; provide a statement of income and expenditures to the Board of Directors and to the Members at the annual meeting.
- e) **Architectural Review Committee Chair:** The chair of this committee will direct the activities of the committee which has duties defined in Article IX.

ARTICLE IX
COMMITTEES

Section 1. Committees. The Board of Directors shall appoint committees as deemed appropriate in carrying out the duties and responsibilities assigned to the Board of Directors.

Section 2. Architectural Review Committee. The Board of Directors shall appoint an Architectural Review Committee, as provided in the Declaration.

- a) This committee shall be comprised of at least three (3) Members In Good Standing, one of whom shall be on the Board of Directors and who will chair the committee.
- b) The newly elected Board of Directors will appoint the committee each year.
- c) The committee must review and approve the plans for any prospective new home prior to any site preparation or construction to ensure the conditions of the Declaration and Bylaws are being adhered to.
- d) The committee must also review and approve plans for any additions to existing homes that would change the outside of the structure, add additions to the structure, or add additional structures to the property.

- e) Any property owner, including those with current homes or vacant lots, who plan to disturb the terrain in any way through the use of heavy equipment, must submit their plan in writing to the Architectural Review Committee for prior approval.
- f) If the plans for a new residence, new additions, or change in the terrain are approved, the Architectural Review Committee will advise and guide the Owner/Member in following the proper procedures as to the fees and examination of the road prior to construction or use of heavy equipment. A listing of impact fees and deposits are described under Article XI. Assessments.
- g) Road Committee shall be appointed by the Architectural Review Chair to oversee maintenance of roads. The committee shall be comprised of at least three (3) Members. Duties shall include periodic road checks to assure roads are clear of debris/gravel and assessment of roads for damages.

ARTICLE X

BOOKS AND RECORDS

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE XI

ASSESSMENTS AND IMPACT FEES

Section 1. Provision for Assessments. As more fully provided in the Declaration and as stated in these Bylaws, each Owner/Member is obligated to pay to the Association annual and special assessments that are secured by a continuing lien upon the Property against which assessment is made.

Section 2. Ceiling for Assessments. A ceiling shall be placed on the total assessments levied so as not to exceed \$400.00 per deed Lot per year. In the event that this figure proves inadequate, a called meeting of the Members shall be held, and the ceiling may be changed following a majority vote of the quorum of those In Good Standing.

Section 3. Assessment Period. The general yearly assessments shall follow the fiscal year of the Association beginning on September 1st. and ending on August 31st. The assessments for water, membership, and roads shall be in accordance with the Declaration.

Section 4. Impact Fees.

- a) Any Owner/Member who begins initial site work or construction shall be assessed a non-refundable road impact fee of \$500.00 payable prior to any disturbance of the land. This fee shall cover routine repair of the road and culverts due to heavy equipment traffic.
- b) Any additions to existing structures requiring heavy equipment or the changing of the terrain that requires the use of heavy equipment will require the Owner/Member to post a \$500.00 impact fee that will be refunded if there is no specific damage to the road.
- c) All of these occurrences require the approval of the Architectural Review Committee as outlined in Article IX.

- d) Payment of these impact fees is required prior to any type of site or construction work beginning. Any assessments for these impact fees, which are not paid, shall be considered overdue and delinquent.

Section 5. Interest and Legal Action. If any assessment is not paid within sixty (60) days of the invoice due date, the amount of such assessment (together with interest at the rate of eight (8) percent per annum from and after the due date thereof) and any costs of collection (including reasonable attorney's fees, if any) shall, at the option of the Board, constitute and become a lien upon said Lot as of the due date thereof upon the filing of notice with the Clerk of the Superior Court of Haywood County, North Carolina. In such instance, the services rendered by the Association for the benefit of such Lot and for which an assessment is levied shall be deemed to have been performed on the due date of such assessment and to "improve" the subject lands and/or create an improvement thereof as defined in Chapter 44-A, Article II, Part I of the General Statutes of North Carolina. The lien created hereby shall not, however, be superior to any institutional mortgage or deed of trust recorded prior to the filing of the Notice of Claim of Lien or any other statutory lien having priority or otherwise provided by law. No Owner may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his/her Lot.

Section 6. Subdivision of Lots. If an Owner/Member subdivides his/her lot (either previously merged or not) and does so in accordance with the Declaration of Covenants, Conditions, and Restrictions regarding Lot area, each newly formed Lot will be assessed the annual assessments based on prorate system for the remainder of the year.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Evergreen Farm Homeowners Association, Inc.

ARTICLE XIII

AMENDMENTS

Section 1. These Bylaws may be amended at a regular annual or called meeting of the Members by a vote of a majority of a quorum of Members who are In Good Standing in the Association and present or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIV

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of September and end on the thirty-first day of August.

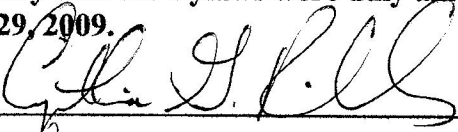

ARTICLE XV
ROAD AND WATER SYSTEM

Section 1. Any apparent and specific damage to the roads inside Evergreen Farm shall be the responsibility of the Owner/Member who is also responsible for damage done by any invitee of the Owner/Member. Damage is that which is in addition to the normal wear and tear in a private deed-restricted residential neighborhood.

Section 2. The water system is now owned and operated by the Town of Clyde. All hook ups and repairs to the meters, the town lines, the water tank, and pump station must be done by the town. The Owner/Member is responsible for the water lines from the meter to the individual home.

The undersigned, we, being the Board of Directors of Evergreen Farm Homeowners Association, hereby certify that the Bylaws were duly amended by the membership of said Association on August 29, 2009.

Directors/Officers:

, President
Will R. Whitworth, Vice President
Janis R. Rowe, Secretary
Sandra J. Myers, Treasurer
, Architectural Review Chair