

BKU9200PG0379

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After recording, return to:
C/O BARBARA J WILSON
1979 OLD PEACHTREE RD NE
LAWRENCEVILLE GA 30043

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TOM LAWLER, CLERK

Cross Reference: Deed Book 7552
Page 63

State of Georgia
County of Gwinnett

**FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS
FOR THE LAKES OF OLD
PEACHTREE**

WHEREAS, the Declaration of Protective Covenants for The Lakes of Old Peachtree (hereinafter "Declaration") was recorded on June 19, 1992 in Deed Book 7552, Page 63 et seq., Gwinnett County, Georgia records; and

WHEREAS, Article XII, Section 4 of the Declaration provides that the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots (other than Lots of Crowes Lake/UGI, L.P., and its successors-in-title and assigns [hereinafter "Declarant"], so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community); and

WHEREAS, the Declarant and at least two-thirds (2/3) of the Owners have manifested their approval of this Amendment to the Declaration through affirmative vote or written consent,

WHEREAS, this Amendment does not alter, modify, change or rescind any right, title, interest or privilege accorded to the holder of any mortgage encumbering any Lot; provided, however, in the event a court of competent jurisdiction determines that this Amendment does alter, modify, change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holder's consent in writing to this Amendment, then this Amendment shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this Amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this amendment shall control with respect to the affected mortgage holder;

NOW, THEREFORE, The Declaration is hereby amended as follows:

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Article VI, Section 7 of the Declaration is hereby deleted in its entirety, and the following new Article VI, Section 7 is substituted therefor:

**Article VI Use Restrictions
and Rules**

Section 7. Leasing. In order to protect the equity of the individual Owners at The Lakes of Old Peachtree, and to carry out the purpose for which the Community was formed by preserving the character of the Community as a homogenous residential community of predominantly owner-occupied homes, leasing of Lots shall be governed by the restrictions imposed by this Section. Except as provided herein, the leasing of Lots is prohibited.

(a) Definitions.

1. "Effective Date" means the date this Amendment is recorded in Gwinnett County, Georgia land records.
2. "Grandfathered Owner" means an Owner of a Lot who is lawfully leasing his or her Lot on the Effective Date. To qualify to be a Grandfathered Owner hereunder, the Owner must, within 30 days of the Effective Date, provide the Board with a copy of the lease in effect on the Effective Date. Grandfathering shall apply only to the Lot owned by such Grandfathered Owner on the Effective Date, and shall continue only until the first of the following events should occur, at which time the Lot shall automatically lose grandfathering hereunder:
 - A. The Grandfathered Owner Conveys title to the Grandfathered Lot to any other person (other than the Owner's spouse); or
 - B. The arrival of one (1) calendar year beyond the expiration of the lease in effect on the Effective Date.
3. "Grandfathered Lot" means the Lot owned by a Grandfathered Owner on the Effective Date hereof.
4. "Leasing" means the regular, exclusive occupancy of a Lot by any person(s) other than: (i) the Owner or a parent, child or spouse of an Owner, or (ii) a roommate who occupies the Lot with the Owner or parent, child or spouse of the Owner, who is also occupying the Lot as his or her primary residence.

(b) Leasing Restrictions. No Owner may lease his or her Lot unless: (i) the Owner is a Grandfathered Owner, or (ii) the Owner is not a Grandfathered Owner but has received a "hardship leasing permit" as provided below.

(c) Hardship Leasing Permits. If an Owner believes that the failure to lease will result in undue hardship on the Owner, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board shall have the authority to issue or deny requests for hardship permits in its discretion after considering the following factors: (i) the nature, degree, and likely duration of the hardship, (ii) the harm to the community; if any, which will result if the hardship leasing permit is approved; (iii) the number of hardship leasing permits which have been issued to other Owners; (iv) the Owner's ability to cure the hardship; and (v) whether previous hardship leasing permits have been issued to the Owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (i) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (ii) an Owner dies and the Lot is being administered by his or her estate; or (iii) an Owner takes a leave of absence or temporarily relocates out of the Atlanta metropolitan area and intends to return to reside in the Lot within one (1) year.

Hardship leasing permits shall be valid only as to a specific Owner and Lot and shall not be transferrable to other Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor-in-title). Hardship leasing permits shall be valid for a term approved by the Board, not to exceed one (1) year. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant.

Hardship leasing permits shall be automatically revoked upon the happening of any of the following events: (i) the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse); (ii) the failure of an Owner to lease his or her Lot within ninety (90) days of the permit having been issued; or (iii) the failure of an Owner to have his or her Lot leased for any consecutive ninety (90) day period thereafter.

(d) Leasing Provisions. When Leasing is permitted under this section, it shall be governed by the following provisions:

1. Notice. At least seven days before entering into a lease, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. If a lease is disapproved, the Board shall notify the Owner of the action to be taken to bring the lease into compliance, with the Declaration and any rules and regulations adopted pursuant thereto.

2. General. Except for roommates of an Owner as provided above, Lots must be leased only in their entirety, and no rooms, basements or fractions of Lots may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. There shall be no subleasing of Lots or assignments of leases without prior written Board approval. Within 15 days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the tenant and all other occupants of the Lot. The Owner must provide the tenant copies of the Declaration, By-Laws, and Association rules. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed tenant; the Board's approval or disapproval shall be limited to the form of the proposed lease.
3. Liability for Assessments and Compliance. Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that, if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, by occupancy of the Lot, agrees to the applicability of this covenant and the incorporation of the following language into the lease:

A. Compliance with Declaration, Bylaws, and Rules and Regulations. If a Lot is leased or occupied in violation of this Section, then the Board of Directors of The Lakes of Old Peachtree Homeowners Association, Inc., (Association) is authorized, in addition to all other available remedies, to terminate that lease and occupancy, and to suspend all voting and/or Common Property use privileges of the Owner and any unauthorized tenant(s) or occupant(s), subject to the provisions of the Declaration of Protective Covenants for The Lakes of Old Peachtree (Declaration) and the Association Bylaws (Bylaws).

The tenant shall comply with all provisions of the Declaration, Bylaws, and Association rules and shall control the conduct of all other occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws, and Association rules, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any such violation.

If the tenant, or a person living with the tenant, violates the Declaration, Bylaws or Association rules, fines may be levied against the tenant and/or the Owner, and such violation is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without any liability and to evict the tenant in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the authority of enforcement against the tenant for breaches resulting from the violation of the Declaration, Bylaws, and Association rules, including the power and authority to evict the tenant as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. Alternatively, the Association may require the Owner to evict the violating tenant. If the Association proceeds to evict the tenant, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the lot.

B. Liability for Assessments. When an Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge owed to the Association for a period of more than 30 days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency, and, upon request by the Board, the tenant shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by the tenant. However, the tenant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by the tenant shall reduce, by the same amount, the tenant's obligation to make monthly rental payments to the Owner. If the tenant fails to comply with the Board's request to pay assessments or other charges, the tenant shall pay to the Association all amounts authorized under the Declaration as if the tenant were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

BKU9200PG038I*

IN WITNESS WHEREOF, the undersigned officers of The Lakes of Old Peachtree Homeowners Association, Inc. certify that this Amendment to the Declaration was duly adopted by the requisite majority of Association membership, with any required notice duly given.

This 8 day of , 2008

THE LAKES OF OLD PEACHTREE HOMEOWNERS ASSOCIATION, INC.

By: Jan Regen (seal)
ent
Presid

Sworn to and subscribed before me

This 8th day of Dec, 2008

Notary Public

Notary Public

§%^i^":

Notary Public, Georgia
My Commission Expires 2009

Attest: Green (seal)
Secretary

[Corporate Seal]

