

STATE OF GEORGIA
COUNTY OF COBB

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Cross Reference: Deed Book 14432, Page 4062.

AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR DOGWOOD PARK

This Amendment to The Declaration of Protective Covenants, Conditions, Restrictions and Easements for Dogwood Park ("Amendment") is made on the date hereinafter set forth by the Dogwood Park Homeowners Association, Inc. ("Association") on behalf of the owners of Lots in Dogwood Park subdivision ("Owners").

WITNESSETH:

WHEREAS, PACIFIC 3, LLC recorded that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Dogwood Park subdivision, on December 28, 2006, in Deed Book 14432, Page 4062, et seq., in the public land records of Cobb County, Georgia, ("Declaration");

WHEREAS, said Declaration was amended to submit it to the Georgia Property Owners' Association Act (O.C.G.A. 44-3-220, et. seq.), which was recorded on January 22, 2018, in Deed Book 15509, Page 811, et seq., in the public land records of Cobb County, Georgia, ("Declaration");

WHEREAS, Owners desire to amend various provisions of the Declaration;

WHEREAS, Section 11.6 of the Declaration, as amended, provides that it may be amended upon the written consent of at least two-thirds (2/3rds) of the Total Association Vote;

WHEREAS, Owners holding two-thirds (2/3rds) or more of the total eligible Association vote consented in writing to the Amendment, as certified to by the attached signature of the Association's representatives; and

WHEREAS, this amendment is not material with respect to first mortgagees in that it does not materially and adversely affect the security title or interest of any first mortgagee; provided, however, in the event a court of competent jurisdiction determines that this amendment does materially and adversely affect the security title or interest of any first mortgagee without such first mortgagee's consent to this amendment, then this amendment shall not be binding on the first mortgagee so involved, unless such first mortgagee 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 first mortgagees.

NOW, THEREFORE, for and in consideration of the premises, said Declaration is hereby amended as follows:

1.

Section 7.5 regarding Leasing is deleted in its entirety, and a new Section 7.5 is substituted in its place as follows:

7.5 Leasing Restrictions. In order to preserve the character of Dogwood Park subdivision as predominantly owner-occupied and thus protect the value of Lots within the community, and ensure that Lots qualify for eligibility of mortgage financing insofar as the criteria is based upon percentage of owner-occupied Lots, the leasing of Lots is prohibited except for (1) a Grandfathered Owner or (2) an Owner who has received a written Leasing Permit or Hardship Leasing Permit from the Board as provided in this Section or (3) the Association for any Lots owned by the Association. The Board shall have the power to make reasonable rules and regulations in order to further clarify and enforce the provisions of this Section, including the establishment of a reasonable processing fee for requests to approve leasing and the right to impose fines constituting a lien upon the Lot being leased.

(a) DEFINITIONS.

(i) "Assessments" as used in this Article shall include all assessments as described and contained in Article 4 of this Declaration.

(ii) "Authorized Corporate Occupant" shall be an officer, director, shareholder, member or employee of an Owner that is a corporation; a manager or member of an Owner that is a limited liability company; a partner of an Owner that is a partnership; or a trustee or beneficiary of an Owner that is a trust; provided the Owner receives no rent or other consideration for such occupancy. The name of each Authorized Corporate Occupant shall be provided to the Board in a sworn affidavit that includes the Occupant's relationship to the owner, and the designated Authorized Corporate Occupant may not be changed more frequently than once every 12 months without the Board's written consent. A person's designation as an Authorized Corporate Occupant shall terminate automatically upon the termination of such person's relationship with the entity holding record title to the Lot. Occupancy of an entity-owned Lot by any person that does not qualify as an Authorized Corporate Occupant hereunder shall be unauthorized and shall be deemed to constitute leasing under this Section.

(iii) "Effective Date" the date on which this Amendment to the Declaration for Dogwood Park is recorded in the County Records.

(iv) "Grandfathered Owner" means an Owner of a Lot who is lawfully leasing his or her Lot on the Effective Date, and who has provided the Board, within thirty (30) days of the Effective Date, a copy of the lease in effect on the Effective Date. Any Owner leasing a Lot on the Effective Date who does not provide a copy of the lease shall not be entitled to Grandfathered status and shall be considered in violation of the Declaration. A Grandfathered Owner shall continue only until the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot to any other person (other than the Owner's Spouse); or (2) the date that all current occupants of the Grandfathered Owner's Lot vacate and cease to occupy the Lot. If the Grandfathered Owner and Tenant maintain compliance with all Covenants, By-Laws, and Rules of the Association, including timely payment of any Assessments, then in the discretion of the Board, a lease may be renewed with the same Lessees/Tenants, and the Grandfathered status will be renewed for the term of the new lease. No Owner may be grandfathered for leasing if they are delinquent in paying their Assessments, fines, or other charges to the Association, or if they have had more than one late payment of Assessments, fines, or other charges in the previous twelve (12) months.

(v) **"Leasing"** for the purposes of this Declaration is defined as the occupancy of a Lot by any person(s) other than (1) the Owner or a child, parent, grandparent, spouse or former spouse of an Owner, which relationship shall be demonstrated to the Board on request by providing a copy of a birth certificate or similar document satisfactory to the Board or (2) an Authorized Corporate Occupant or (3) a roommate of any of the preceding persons, but shall be limited to a total of one roommate or couple. Short term rentals, including rentals through online services such as VRBO and Airbnb are strictly prohibited.

(b) **LEASING CAP & PERMIT.** Owners who want to lease their Lot may do so only if they have applied for and received from the Board either a "Leasing Permit" or a "Hardship Leasing Permit". The Board may establish conditions as to the duration and use of such permits consistent with this Section. The Board may refuse to issue any Leasing Permit or Hardship Leasing Permit if the Owner is shown on the Association's books and records to be delinquent in any assessment or charge or if the Owner is in violation of the Declaration, Bylaws or Association rules. **In order to qualify for a leasing permit, the owner must first reside in the home for at least a twelve (12) month period.**

An Owner's request for a Leasing Permit shall be approved if the number of current, outstanding permits issued, including Grandfathered Lots, is less than ten percent (10%) of the total Lots at Dogwood Park. An Owner, other than a Grandfathered Owner, may only lease one Lot at any given time. Leasing Permits are automatically revoked upon the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse). All Leasing Permits and Hardship Leasing Permits shall be valid only as to a specific Owner and Lot, and shall not be transferable between either Lots or Owners, including subsequent Owners of a Lot.

If the amount of current Leasing Permits issued is more than ten percent (10%), then no additional Leasing Permits shall be issued, except for Hardship Leasing Permits, until that amount falls below ten percent. Owners who have been denied a Leasing Permit because the Leasing Cap is satisfied shall be placed on a waiting list to be issued such a permit, if they so desire, when the above conditions have been satisfied. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

(c) **HARDSHIP LEASING PERMITS.** If the failure to lease will result in a hardship, 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 Leasing Permits in its discretion after considering the following factors: (i) the nature, degree, and likely duration of the hardship, (ii) the number of Hardship Leasing Permits which have been issued to other Owners, (iii) the Owner's ability to cure the hardship, and (iv) whether previous Hardship Leasing Permits have been issued to this Owner. The Board shall not consider any hardship that pre-exists the Owner's purchase of their Lot.

The Board may promulgate and/or amend regulations to serve as guidelines for circumstances constituting a basis for consideration of issuing a Hardship Leasing Permit. By way of illustration, and not prescription, limitation, or restriction, examples of such circumstances might be those in which:

1. The Owner has been called to active military duty.
2. Placement of the Owner in a long term care facility.
3. Placement of the Owner with a family member due to illness.
4. The Owner dies and the Lot is being administered by their estate.
5. The Owner must temporarily relocate and intends to return to reside in the Lot.
6. An Owner must relocate his residence and cannot, within a set period of time from the date the Lot was placed on the market, sell the Lot while offering it for sale at a reasonable price no greater than its current appraised market value.

Hardship Leasing Permits shall be valid for a term not to exceed one (1) year. Hardship Leasing Permits shall be automatically revoked if during the term of the permit the Owner applies for and receives a Leasing Permit. Hardship Leasing Permits shall not be renewed. Therefore, any lease signed under a Hardship Leasing Permit must contain a provision stating that the lease is not renewable.

(d) LEASING PROVISIONS. Leasing of Lots shall be governed by the following provisions:

(i) Notice. At least seven (7) days prior to entering into the lease of a unit, the owner shall provide the Board of Directors with a copy of the proposed lease, the names and addresses of the proposed lessee, and such other information as the Board may reasonably require. Within ten (10) business days after executing a lease agreement, the Owner shall provide the Board with a copy of the executed lease.

(ii) General. Lots may be leased only in their entirety; no rooms, basements or fractions of Lots may be leased without prior written Board approval. All leases shall be in writing. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than twelve (12) months, but not more than twenty-four (24) months. The Owner must provide the lessee copies of the Declaration, Bylaws, Architectural Standards, and Rules and Regulations of the Association. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iii) Required Provisions. 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 lessee, by occupancy of the Lot, agrees to the applicability of this covenant, and incorporation of the following language contained in Subsections (A) and (B) into the lease:

(A) Liability for Assessments and Other Charges. Lessee agrees to be personally obligated for the payment of all assessments and all other charges against the Lot which become due during the term of the lease, including, but not limited to, fines which become due as a consequence of lessee's activities which violate provisions of the Declaration, Bylaws, Architectural Standards, or the rules and regulations of the Association. When an Owner who is leasing a Lot fails to pay any assessment or any other charge against the Lot for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon demand by the Board, lessee shall pay to the Association all unpaid assessments and other charges payable during the remaining term of the lease and any other period of occupancy by the lessee; provided that lessee 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 Association's request.

All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If the lessee fails to comply with the Board's demand to pay assessments or other charges to the Association, lessee shall be personally obligated to pay to the Association all amounts authorized under the Declaration as if the lessee were the Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which the Owner would otherwise be responsible.

(B) Compliance with the Governing Documents and Enforcement Powers of the Association. If a Lot is leased or occupied in violation of this Section, the Association may bring an action against the lessee and/or the Owner for recovery of damages or for injunctive relief, or may impose any other sanctions authorized by the Declaration and Bylaws, as they may be amended from time to time, or

which may be available at law or in equity. Failure by the Association to enforce any of its rights shall in no event be deemed a waiver of the right to do so thereafter.

The Lessee shall comply with all provisions of the Declaration, Bylaws, Architectural Standards and rules and regulations of the Association, and shall control the conduct of all other occupants and guests of the leased Lot in order to ensure such compliance, and shall indemnify and hold the Association harmless for any such person's failure to comply. The Owner shall cause all occupants of the Lot to comply with the Declaration, Bylaws, Architectural Standards and the rules and regulations, and shall be responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Lot are also liable for any such violation or loss. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, Architectural Standards or a rule and regulation of the Association, fines may be levied against the lessee and/or the Owner; and such a violation is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability, and to evict the lessee in accordance with Georgia law. The Owner and Lessee hereby further agree to hold harmless the Association, its Board of Directors, employees and agents if the Association exercises any of the enforcement power granted in this Section.

(e) **RIGHTS OF FIRST MORTGAGEES.** Notwithstanding anything to the contrary herein contained, the provisions of this Article shall not impair the right of any first Mortgagee to:

- (i) foreclose or take title to the Lot pursuant to remedies contained in any Mortgage;
- (ii) take a deed or assignment in lieu of foreclosure; or
- (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

(f) **AMENDMENTS TO CONFORM WITH LAWS.** The Board may amend this Section of the Declaration without a vote of the Owners in order to comply with requirements of federal, state, or local law.

2.

A new Section, 7.34, is added as follows:

7.34 Number of Occupants. The maximum number of occupants per dwelling shall not exceed an average of two persons per bedroom, as 'bedroom' is designated and defined in the construction plans. The Board may amend the Declaration without a vote of the Owners in order to comply with any requirements of federal, state, or local law regarding occupancy restrictions.

ALL OTHER PROVISIONS OF SAID DECLARATION SHALL REMAIN UNCHANGED.

If legal action is not instituted to challenge the validity of this Amendment to the Declaration within one (1) year of the recording thereof in the Cobb County, Georgia land records, then the Amendment shall be presumed to be validly approved and adopted.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the foregoing Amendment is executed by the undersigned duly authorized representatives of the Association on this 6 day of May, 2019, and said representatives hereby swear and certify that after any duly required notice, Owners holding two-thirds (2/3) or more of the total eligible Association vote consented in writing to the Amendment.

Dogwood Park Homeowners Association, Inc.

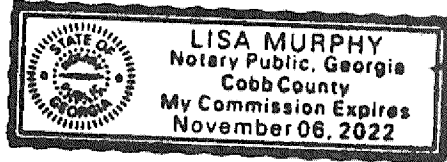
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WITNESS

Signature: Anna Clark
BY: Frances Clark
(Print Name)
TITLE: President.

Sworn to, signed, and sealed
on the 6 day of May,
2019, in the presence of:

Lisa Murphy
NOTARY PUBLIC
[SEAL]

Attested To By:
Signature: Edward L. Parris
SECRETARY



Prepared By:
Michael Rome, Esq.
GA Bar #613945