

STATE OF GEORGIA
COUNTY OF COBB

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Cross Reference: Deed Book 4324, Page 484.

AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR BROOKSTONE, A COUNTRY CLUB COMMUNITY

This amendment to the Declaration of Covenants, Conditions and Restrictions for Brookstone, a Country Club Community ("Amendment") is made on the date hereinafter set forth by the Brookstone Homeowners Association, Inc. ("Association") on behalf of the Owners of Lots in Brookstone subdivision ("Owners").

W I T N E S S E T H:

WHEREAS, on the 5th day of February, 1987 that certain Declaration of Covenants, Conditions, and Restrictions for Brookstone a Country Club Community were recorded in Deed Book 6830, Page 335, Superior Court Records, Cobb County, Georgia, as amended from time to time ("Declaration");

WHEREAS, the Owners desire to amend the Declaration for the purpose of adding certain leasing restrictions;

WHEREAS, Section 12.03 of the Declaration provides that a proposed amendment shall be considered and adopted at a meeting of the Association;

WHEREAS, Section 14-3-704 of the Georgia Nonprofit Corporation Act allows an action to be taken without a meeting if done so by written consent;

WHEREAS, Section 12.03 of the Declaration provides that it may be amended with at least two-thirds (2/3) of the eligible votes in the Association;

WHEREAS, Owners holding two-thirds (2/3) or more of the eligible Association votes consented to the Amendment, as sworn to by the Association president and evidenced by the president's attached signature; 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.

A new Section 10.29 is added as follows:

10.29 Leasing Restrictions. *In order to preserve the character of Brookstone as predominantly owner-occupied and thus help 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, which will constitute 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 IX 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 Brookstone is recorded in the County Records.*

(iv) *"Grandfathered Owner" means an Owner of a Lot who owns their Lot on the Effective Date. A Grandfathered Owner shall notify the Board when they lease their Lot, and shall provide the name of the tenants, along with the mailing address for the Owner. A Grandfathered Owner shall continue only until the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot (other than to the Owner's Spouse); or (2) when the Grandfathered Owner and/or tenant no longer maintain compliance with all Covenants, By-Laws, Guidelines, Regulations or Rules of the Association, including timely payment of any Assessments. No Grandfathered Owner may lease until current in payment of their Assessments, fines, or other charges to the Association.*

(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 those through online services such as VRBO and Airbnb, are strictly prohibited.*

(vi) *"Owner" for the purposes of this Section 10.29 only, shall not include any record holder of an interest in title to a Lot that is ten percent (10%) or less unless all title interests are held in equal percentages or unless the holders of all record title interests prove to the satisfaction of the Board by sworn affidavit and competent evidence (and in addition to the title documents filed in*

the land records or with other governmental agencies or departments) that the distribution of title interests in the Lot: (1) is a bona fide fee simple transfer for value, (2) is otherwise in good faith, and (3) is not intended to avoid a violation of the requirements of this Section or of any other provision of, or the purposes of, the Association Legal Documents, as such are determined by the Board in its discretion. The record holders of all of the title interests in the Lot shall have the burden of proof and it shall be presumed that a holder of a title interest of ten percent (10%) or less is not an "Owner" for the purposes of this Section 10.29 of the Declaration. In its sole discretion, the Board may require submission of true and accurate information in order to evaluate the transaction and aid its determination.

This modification to the definition of "Owner" shall not be construed to affect the validity of any transfer of title to or ownership of a Lot (as ownership may otherwise be defined by law), it being the intent of the parties to this Declaration to only regulate and restrict the occupancy of Lots. Further, this modification to the definition of "Owner" shall not be construed to exempt any record holder of an interest in title to a Lot who is otherwise an "Owner" within the meaning of Article I, Sub-Section (x) of this Declaration, regardless of his or her respective percentage of ownership interest, from any rights, liabilities or obligations applicable to an Owner pursuant to any provision of this Declaration other than this Section 10.29, including but not limited to, the obligation to pay assessments pursuant to this Declaration.

(b) Leasing Cap & Permit. Owners who want to lease their lots may do so only if they have applied for and received from the Board either a "Leasing Permit" or a "Hardship Leasing Permit". In order to qualify for a Leasing Permit, the Owner must first reside at the Lot for at least a twelve (12) month period. 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.

An Owner's request for a Leasing Permit shall be approved if the number of current, outstanding permits issued plus Grandfathered Owners then leasing is less than ten percent (10%) of the total Lots in Brookstone. An Owner, other than a Grandfathered Owner, may not lease more than 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 number of current Leasing Permits issued (not including Grandfathered Owners) then leasing is more than ten percent (10%) of the total number of Lots, then no additional Leasing Permits shall be issued, except for Hardship Leasing Permits, until that number falls below ten percent (10%). 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. Grandfathered Owners do not have to be placed on a waiting list, if otherwise qualified to lease as provided above.

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, except that the Board upon written request, may allow a lease term for less than twelve (12) months upon a showing of special circumstances. 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 (except for voluntary swim/tennis memberships) 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 10.30 is added as follows:

10.30 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 requirements of federal, state, or local law regarding occupancy restrictions.

[SIGNATURES APPEAR ON NEXT PAGE]

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.


IN WITNESS WHEREOF, the foregoing Amendment is executed by the undersigned duly authorized representative of the Association on the date set forth below, and said representative hereby swears and certifies that Owners holding two-thirds (2/3) or more of the eligible Association vote consented in writing to the Amendment. The individual, executed written consents are maintained in the corporate records of the Association.

Brookstone Homeowners Association, Inc.

Sworn to, signed and sealed before us
this 20th day of May, 2025



WITNESS




NOTARY PUBLIC
[SEAL]

Joy S Marks
NOTARY PUBLIC
COBB COUNTY, GEORGIA
My Commission Expires 04/08/2028

By: 

President

Attested to By:


SECRETARY