

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 2028400475 SubmitterID: 0848497841

After Recording Return To:  
Lueder, Larkin & Hunter, LLC  
5900 Windward Parkway, Suite 390  
Alpharetta, Georgia 30005  
Attn: PG

Cross Reference:  
Deed Book 8921, Page 75

STATE OF GEORGIA

COUNTY OF CHEROKEE

**AMENDMENT TO THE DECLARATION OF  
COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR LANTERN WALK**

This Amendment to the Declaration of Covenants, Restrictions and Easements for Lantern Walk (hereafter referred to as "Amendment") is made on the date set below.

W I T N E S S E T H:

WHEREAS, Lantern Walk, LLC, a Georgia limited liability company, recorded that certain Declaration of Covenants, Restrictions and Easements for Lantern Walk on July 19, 2006, in Deed Book 8921, Page 75 of the Cherokee County, Georgia land records (hereafter referred to as "Declaration");

WHEREAS, Northside Bank succeeded to the ownership of a portion of property subject to the Declaration and to all of the rights of Lantern Walk, LLC as Declarant pursuant to that certain Deed Under Power recorded on June 16, 2010 in Deed Book 11046, Page 130 of the Cherokee County, Georgia land records;

WHEREAS, Northside Bank recorded that certain Assignment of Declarant Rights under Declaration of Covenants, Restrictions and Easements on February 14, 2019 in Deed Book 14334, Page 2574 of the Cherokee County, Georgia Land Records, which transferred all Declarant rights under the Declaration to Gateway Builders, LLC ("Declarant");

WHEREAS, pursuant to Article XII of the Declaration, until the expiration of the Development Period (as defined in the Declaration), the Declaration may be amended only by Declarant, who may unilaterally amend the Declaration for any purpose;

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WHEREAS, the Development Period has not expired;

WHEREAS, Gateway Builders, LLC, as Declarant, is waiving its right to solely amend the Declaration pursuant to Article XII for the sole and limited purpose of allowing the membership of the Association to adopt this amendment;

WHEREAS, after the Development Period, the Declaration may be amended only upon the affirmative vote or written consent, or any combination thereof, of two-thirds (2/3) of the Lot Owners;

WHEREAS, Declarant and the members of the Association desire to modify the leasing restriction application to the Lantern Walk Community;

WHEREAS, Declarant and at least two-thirds (2/3) of the Lot Owners have consented by written consent or by affirmative vote to this Amendment;

WHEREAS, Gateway Builders, LLC, as Declarant, desires to amend the Declaration;

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

1.

**The Recitals of the Declaration is amended by deleting the following:**

This document established a mandatory membership homeowners association, but does not and is not intended to submit the Property to the provisions of the Georgia Property Owners' Association, Act, O.C.G.A. § 44-3-220, *et seq.*

**And substituting the following therefor:**

THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION AND THIS DOCUMENT SUBMITS THE ASSOCIATION AND THE COMMUNITY TO THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, *ET SEQ.*

2.

**Article I of the Declaration is amended by adding the following definition thereto:**

"Georgia Property Owners' Association Act" or "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*, as the same may be supplemented, amended or modified. Lantern Walk is a residential property owners development which is hereby submitted to the Act. The Declaration and all property subject to the Declaration are accordingly submitted to the Act.

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3.

**Article VIII, Section 7 is amended by deleting Section 7 in its entirety and substituting the following therefor:**

Section 7. Leasing. In order to protect the equity of the individual Owners within the Community, to carry out the purpose for which the Community was formed by preserving the character of the Community as a residential property of predominantly owner-occupied homes, to prevent the Community from assuming the character of a renter-occupied development, and to comply with any eligibility criteria for mortgages, including mortgages on the secondary mortgage market, insofar as such criteria provide that the Community be substantially owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Section.

(a) Prohibition. Except as provided herein, the leasing of Lots (including homes) is hereby prohibited.

(b) Short Term Leasing. Notwithstanding anything to the contrary herein, short-term rentals, transient tenants, and any other services utilized to temporarily rent Lots as accommodations to guests or tenants (for example, Airbnb, VRBO, or other similar services) are expressly prohibited, and such rental arrangements shall be considered an impermissible business activity.

(c) Definitions. "Leasing," for purposes of the Declaration, is defined as the regular, exclusive occupancy of a Lot by any person or persons other than the Owner; provided, however, leasing shall not include exclusive occupancy by the spouse, domestic partner, child, or parent of an Owner and shall not include the occupancy by a roommate of an Owner who occupies the Unit as such Owner's primary dwelling.

If the Owner of a Lot is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person, the entity shall designate in writing to the Board of the Directors the name(s) of the natural person(s) who will occupy the Lot. To constitute a valid designation in accordance with this subsection, the natural person must have a substantial relationship to the legal entity, including, by way of illustration and not limitation, being a shareholder, director, or officer of the corporation, being a member of the limited liability company, being a partner in the partnership, or being a beneficiary of the trust. In no event shall the natural person(s) designated to occupy the Lot be changed more frequently than once every twenty-four (24) months.

If the entity Owner receives any consideration or benefit, including, but not limited to, rent, a fee, service, or gratuity from or on behalf of the designated person(s) occupying the Lot, then such arrangement shall be considered leasing, and the Owner shall be required to comply with the entirety of this Section. An express purpose of this subsection is to ensure that entity Owners do not utilize the designation of a natural person to occupy the Lot in order to circumvent the leasing restriction contained within this Section.

(d) General. Any Owner who desires to lease such Owner's Lot may do so only if the Owner has applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit." Such a permit, upon its issuance, will allow an Owner to lease his or her Lot provided that such leasing is in strict accordance with the terms of the permit and this Section.

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The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Section. All permits shall be valid only as to a specific Lot Owner and shall not be transferable between either Lots or Lot Owners.

(e) Leasing Permits. In order to be qualified to apply for and obtain a Leasing Permit for a Lot, an Owner must have regularly occupied that Lot as his or her primary residence for at least twenty-four (24) consecutive months. The purpose of this provision is to discourage the purchase of Lots by Owners for the sole purpose of renting the Lot as an investment property.

A qualified Owner's request for a Leasing Permit shall be approved if current, outstanding Leasing Permits have not been issued for the maximum number of Lots in the Community as outlined below:

January 1, 2022 through December 31, 2022: 40 Lots  
January 1, 2023 through December 31, 2024: 35 Lots  
January 1, 2025 through December 31, 2026: 29 Lots  
January 1, 2027 through December 31, 2029: 25 Lots  
January 1, 2030 forward: 22 Lots

Leasing Permits shall be valid for one (1) year beginning on the date of the commencement of the lease agreement applicable to the Lot ("Leasing Permit Effective Date"). All applications for a Leasing Permit shall include a copy of the proposed lease agreement. The commencement date of the proposed lease agreement and Leasing Permit Effective Date shall be within sixty (60) days of the date of the issuance of the a Leasing Permit, and within ninety (90) days of the date of the application for the Leasing Permit. Leasing Permits shall be issued on a first come, first serve basis.

A Leasing Permit shall be automatically revoked upon the happening of any of the following events: (1) the sale or transfer of the Lot to a third party; (2) the failure of a Lot Owner to lease his or her Lot within sixty (60) days of the Leasing Permit having been issued; (3) the failure of a Lot Owner to have his or her Lot leased for any consecutive ninety (90) day period thereafter; or (4) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit.

If current Leasing Permits have been issued for the maximum number of Lots in the Community as outlined above, no additional Leasing Permits shall be issued (except for Hardship Leasing Permits, as set forth below) until the number of outstanding current Leasing Permits falls below the maximum number of Lots in the Community as outlined above. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued a Leasing Permit if they so desire when the number of current outstanding Leasing Permits issued falls to less than maximum number of Lots in the Community as outlined 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.

(f) Hardship Leasing Permits. If the failure to lease will result in a hardship, an Owner may seek to lease on a hardship basis by applying to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the sole authority to issue or deny requests for Hardship Leasing Permits in its discretion. In making such a determination, the Board may take any

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factor into account, including: (1) the nature, degree, and likely duration of the hardship, (2) the number of Hardship Leasing Permits which have been issued to other Owners, (3) the Owner's ability to cure the hardship, and (4) whether previous Hardship Leasing Permits have been issued to the Owner. Hardship Leasing Permits shall be valid for a term not to exceed one year. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a Leasing Permit.

(g) Leasing Provisions. All leasing within the Community shall be governed by the following provisions:

(i) Notice. At least seven (7) days prior to entering into the lease of a Lot pursuant to subsection (e) of this Section 7, the Owner shall provide the Board of Directors with a copy of the proposed lease and such other information as the Board may reasonably require. The Board may approve or disapprove the form of said lease. In the event a lease form is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease form into compliance with the Declaration, any rules and regulations adopted pursuant thereto, and any criteria determined by the Board. Within ten (10) days from the execution of the lease by both parties, the Owner shall provide the Board with a copy of the executed lease and the names and phone number of the lessees.

(ii) General. Lots may be leased only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Lots or assignment of leases unless approved in writing by the Board. All leases shall be for a period of twelve (12) months, except with written approval from the Board. The Lot Owner must provide the tenant copies of the Declaration, Association's Bylaws, and Association Rules and Regulations.

(iii) Liability for Assessments and Compliance With Declaration, Bylaws, and Rules and Regulations. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly therein stated, and 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 a lease by existence of this covenant on the Lot. Any lessee, by occupancy of a Lot under the definition of "leasing" stated herein, agrees to the applicability of this covenant and incorporation of the following language into the lease.

(1) Liability for Assessments. Lessee agrees to be personally obligated for the payment of all assessments and all other charges against the Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions of the Declaration, the Bylaws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Lot Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

When a Lot Owner who is leasing his or her Lot fails to pay any assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Lot Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon demand by the Board of Directors, lessee shall pay to the Association all unpaid annual and special assessments and other charges, as lawfully determined and made payable during the remaining term of the lease and any other period of occupancy by lessee

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following such demand. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's demand to pay assessments or other charges to the Association, lessee shall be obligated to pay to the Association all late charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent lessee would be required to make such payments to the Association if lessee were the Owner of the premises during the term of the agreement and any other period of occupancy by lessee, and including all amounts paid by lessee to lessor following the date of such demand from the Board.

(2) Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests in order to insure compliance with the foregoing. Lessee acknowledges that the violation by lessee or any occupant living with lessee of any provision of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under this lease. Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule and regulation for which a fine is imposed, such fine may be assessed against the lessee and/or the Owner; provided, however, if a fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Board of the lessee's failure to do so. Unpaid fines shall constitute a lien against the Lot. Any lessee charged with a violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by lessee, any occupant, or any person living with lessee is deemed to be a violation of 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 hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee on behalf and for the benefit of the Owner, in accordance with the terms hereof, or to require the Owner to do so. In the event the Association proceeds to evict the tenant, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof; and the Owner shall not again lease the Owner's Lot to any person without the expressed written approval of the Board.

(3) Use of Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, including, but not limited to, the use of any and all recreational facilities and other amenities.

(h) Leasing Administration Assessment. For any Lot that is leased after the effective

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date of this Amendment, the Association shall have the authority to assess the Owner of the Lot a Leasing Administration Assessment. The amount of the Leasing Administration Fee upon the effective date of this Amendment shall be \$150.00. The Board may increase the amount of the Leasing Administration Assessment from time to time in the future, provided the amount shall not exceed one half (1/2) the amount of the Annual Assessment applicable to all Lots in effect for the current fiscal year. The Leasing Administration Assessment shall be due and payable on the date on which the lease is executed, and on each subsequent anniversary date thereof, for as long as leasing activity continues. Such Leasing Administration Assessment shall be deemed a specific assessment which may be assessed pursuant to Article VI, Section 5 of the Declaration. Failure to pay the Leasing Administration Assessment within thirty (30) days of the leasing of the Lot shall result in a violation under this Section and the amount owed would constitute a lien against the Owner's Lot. Pursuant to this Section, any Owner who is leasing his or her Lot shall provide current lease agreements to the Association's Board of Directors or management agent for record-keeping purposes.

(i) Applicability of this Section (Grandfathering of Existing Leases and Tenants).

Leases existing and tenants occupying Lots on the date which this Amendment is recorded in the Cherokee County, Georgia land records shall not be subject to the terms of this Section and such leases and tenancies may continue in accordance with the terms of the Declaration as it existed prior to the recording date of this Amendment; provided, however the following: (1) the grandfathering provision contained herein shall automatically expire after the expiration of five (5) calendar years from the end date of the lease agreement in effect as of the date which this Amendment is recorded in the Cherokee County, Georgia land records; (2) any assignment of any lease agreement, including, but not limited to, changes in the identity of the tenant, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Section; and (3) any Owner of a Lot which is leased on the date which this Amendment is recorded in the Cherokee County, Georgia land records must, within ninety (90) days of such recording date, notify the Board of Directors in writing that the Owner's Lot is leased and provide a copy of the lease agreement in effect to the Board of Directors. Failure to provide such notice and lease to the Board shall disqualify the Owner from this grandfather provision. The expressed purpose of this Section is to allow tenants who are currently occupying a Lot to continue occupying and leasing the Lot for a period not to exceed five (5) calendar years from the date of the expiration of the lease term in effect as of the date which this Amendment is recorded in the Cherokee County, Georgia land records.

The leasing restrictions within this Section 7, as amended herein, shall not apply to the Association, Gateway Builders, Inc., HR Residential, Inc., or to any mortgagee having any security interest or title on any property within the Property on the date the Amendment is recorded in the Cherokee County, Georgia land records, and the terms of Section 7, as it existed prior to the date this Amendment is recorded in the Cherokee County, Georgia land records shall control with respect to the Association, Gateway Builders, Inc., HR Residential, Inc., and any such mortgagee.

IN WITNESS WHEREOF, the undersigned hereby unequivocally certifies that agreement of the required number of Lot Owners was lawfully obtained and that all notices were properly given.

Dated this 23<sup>rd</sup> day of DECEMBER, 2020.

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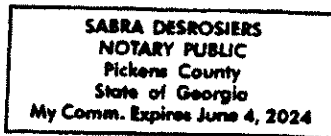
ASSOCIATION:

LANTERN WALK COMMUNITY ASSOCIATION, INC.

By: Gloria Bartko-Thomas  
Print Name: Gloria Bartko-Thomas  
Its: Association President

Witness: Ellen Goldberg

Sworn to and subscribed before me  
this 23 day of December, 2020.



Sabra Desrosiers  
Notary Public

DECLARANT:

GATEWAY BUILDERS, LLC

By: James Cary Bullard  
Print Name: James Cary Bullard Pres  
Its: \_\_\_\_\_

Witness: EM Pugh

Sworn to and subscribed before me  
this 22 day of December, 2020.

N.P. Patel  
Notary Public

