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Return to: Weissman, Nowack, Curry & Wilco, P.C.
3500 Lenox Road, 4th Floor
Atlanta, Georgia 30326
Attention: Julie Howard

STATE OF GEORGIA
COUNTY OF COBB

Cross Reference: Deed Book 12647
Page 144

**SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COUNTRY WALK**

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Country Walk was recorded on June 29, 1999, in Deed Book 12647, Page 144, *et seq.*, Cobb County, Georgia Records ("Declaration"); and

WHEREAS, Paragraph 19 of the Declaration provides that the Declaration may be amended by the affirmative vote, written consent, or any combination of both, of the members of the Country Walk Homeowners' Association, Inc. ("Association") holding at least sixty-six and two-thirds percent (66 2/3%) of the total eligible vote of the Association; and

WHEREAS, members of the Association holding at least sixty-six and two-thirds percent (66 2/3%) of the total eligible vote of the Association desire to amend the Declaration and have approved this Amendment; and

WHEREAS, this Amendment is not material in that it does not alter, modify, change or rescind any right, title, interest or privilege held by any Eligible Mortgage Holder; provided, however, in the event a court of competent jurisdiction determines that this Amendment does so without such Eligible Mortgage Holder's consent as set forth in Paragraph 19 of the Declaration, then this Amendment shall not be binding on any Eligible Mortgage Holder materially affected by the Amendment, unless it consents hereto or unless the Eligible Mortgage Holders consent as set forth in Paragraph 19, and, if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to the affected Eligible Mortgage Holder;

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

1.

Paragraph 12 of the Declaration is hereby amended by deleting that Paragraph in its entirety and substituting the following therefor:

12. LEASING. In order to protect the equity of the individual Owners in Country Walk, 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 Paragraph. **Except as provided herein, the leasing of Lots is prohibited.**

(a) **Definitions.**

(i) **"Effective Date"** means the date this Amendment is recorded in the Cobb County, Georgia land records.

(ii) **"Grandfathered Owner"** means an Owner of a Lot who is lawfully leasing his or her Lot 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 date the Grandfathered Owner conveys title to the Grandfathered Lot to any other person (other than the Owner's spouse). At that time, the Lot shall automatically lose grandfathering hereunder. 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.

(iii) **"Grandfathered Lot"** means the Lot owned by a Grandfathered Owner on the Effective Date hereof.

(iv) **"Leasing"** means the regular, exclusive occupancy of a Lot by any person(s) other than: (1) the Owner or a parent, child or spouse of an Owner, or (2) a roommate who occupies the Lot with the Owner or parent, child or spouse of the Owner occupying the Lot as his or her primary residence.

(b) **Leasing Restriction.** No Owner may lease his or her Lot unless: (1) the Owner is a Grandfathered Owner, or (2) the Owner is not a Grandfathered Owner but has received a hardship leasing permit from the Board as provided below.

Non-Grandfathered Owners who want to lease their Lots may do so only if they have applied for and received from the Board of Directors a "hardship leasing permit" as provided below.

(c) **Hardship Leasing Permits.** If an Owner believes that the failure to lease will result in an undue hardship to the Owner, then 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: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Community if the permit is approved, (3) the number of hardship leasing permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous hardship leasing permits have been issued to the Owner.

A "hardship" hereunder shall include, but not be limited to, the following situations:

(i) an Owner dies, and the Lot is being administered by his or her estate;

(ii) an Owner takes a leave of absence or temporarily relocates out of the metropolitan-Atlanta area and intends to return to reside in the Lot within one (1) year; or

(iii) an Owner must relocate his or her residence 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.

Hardship leasing permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners, or to subsequent Owners.

Hardship leasing permits are automatically revoked or automatically expire upon: (1) the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse); (2) the failure of an Owner to lease his or her Lot for 120 consecutive days at any time after the issuance of the permit; or (3) one year from the date the permit is issued, unless the Board establishes a shorter or longer term. Owners may apply for additional hardship leasing permits at the expiration of a hardship leasing permit, if the circumstances warrant.

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

(i) 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 in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(ii) General. Except for roommates of an Owner as provided above, Lots may 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 assignment 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.

(iii) 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 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 Paragraph, then the Association's Board of Directors 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 and the Association 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 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.

(e) Applicability of this Paragraph. Notwithstanding the above, this Paragraph shall not apply to any leasing transaction entered into by the Association.

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

This ____ day of _____, 200__.

**COUNTRY WALK HOMEOWNERS
ASSOCIATION, INC.**

Sworn to and subscribed to before
me this ____ day of _____,
200__.

By: _____(Seal)
President

Witness

Attest: _____(Seal)
Secretary

Notary Public

[Corporate Seal]

[Notary Seal]