
Return to: Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center
3500 Lenox Road, 4th Floor
Atlanta, Georgia 30326 (MMR)

**STATE OF GEORGIA
COUNTY OF GWINNETT**

**Instructions to Clerk: Cross-Reference to Plat
Book set forth below; Index each signatory in Grantor Index; Index
Lakeport Homeowners Association, Inc.
in Grantor and Grantee Indexes**

**All Lots Subject to this Declaration are located in
Land Lot 1, 5th District and Land Lot 300, 4th District of Gwinnett County, Georgia**

**Gwinnett County Cross-Reference: Plat Book 93
Page 242
Plat Book 95
Page 26
Plat Book 95
Page 28
Plat Book 95
Page 82
Plat Book 95
Page 83
Plat Book 95
Page 84
Plat Book 96
Page 77
Plat Book 96
Page 158
Plat Book 101
Page 64
Plat Book 101
Page 65
Plat Book 103
Page 285
Plat Book 103
Page 286**

DECLARATION OF PERMANENT MEMBERSHIP FOR LAKEPORT SUBDIVISION

IMPORTANT NOTICE:

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.

CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/ CHARGES DUE ON LOTS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS ON LOTS, PURSUANT TO THE PROVISIONS HEREOF.

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PREPARED BY:

**WEISSMAN, NOWACK,
CURRY & WILCO, P.C.**
ATTORNEYS AT LAW

MARILYN RATZEL, ESQUIRE

**DECLARATION OF PERMANENT MEMBERSHIP FOR
LAKEPORT SUBDIVISION**

WHEREAS, that certain Declaration of Protective Covenants for Lakeport was recorded in Deed Book 30099, Page 47, et seq., Gwinnett County, Georgia records; and

WHEREAS, all the real property submitted to the Protective Covenants is more particularly depicted on the following plats, all of which are recorded in the Gwinnett County, Georgia records:

Lakeport , Unit I	Plat Book 95, Pages 26 and 27;
Lakeport, Unit II	Plat Book 95, Page 28; and
Lakeport, Unit IV	Plat Book 100, Page 87;

WHEREAS, all that real property depicted on the above-referenced plats is part of the Lakeport Subdivision; and

WHEREAS, Lot Owners at Lakeport Subdivision in Gwinnett County, Georgia, who have executed this Declaration, are the Owners of that certain real property described in signature page(s) affixed hereto and as are listed on Exhibit "A" attached hereto and incorporated herein by reference and desire to subject their Lot and the Property to the terms and provisions of this Declaration of Permanent Membership for Lakeport Subdivision ("Declaration"), and do hereby subject their Lot and the Property to continuing Permanent Membership in Lakeport Homeowners Association, Inc. ("Association") and authorize and direct the Board of Directors to subject the any Common Property to the terms and provisions of this Declaration; and

WHEREAS, the undersigned officers of the Association desire to approve this Declaration and membership in the Association on behalf of the Association;

WHEREAS, the Lot Owners who have executed this Declaration do hereby consent, on behalf of such Owner, Owner's successors, successors-in-title, heirs, and assigns, that such Owner's Lot shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in this Declaration, as a Permanent Member (as defined in the Declaration) of the Association, all of which shall run with the title to Owner's Lot and shall be binding upon all persons having any right, title, or interest in Owner's Lot, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Each Owner understands and acknowledges that, by submitting Owner's Lot to Permanent Membership in the Association, each Owner is hereby subjecting Owner's Lot to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with the Declaration. Each Owner does further consent to the submission of the Common Property (as defined in the Declaration) to this Declaration; and

WHEREAS, these preambles are incorporated into the Declaration pursuant to Paragraph 13(e) of the Declaration.

NOW, THEREFORE, the undersigned officers of the Association, and all Lot Owners who have executed this Declaration, hereby declare that all of the Property described herein and in Exhibit "A" and Exhibit "C" shall be held, sold and conveyed subject to this Declaration, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each Owner of any portion of the Property, his heirs, grantees, distributees, successors, successors-in-title and assigns and to the benefit of the Association:

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**DECLARATION OF PERMANENT MEMBERSHIP
FOR LAKEPORT SUBDIVISION**

1. NAME.

The name of the property is Lakeport Subdivision, which property is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq.

2. DEFINITIONS.

The terms used in this Declaration shall have their normal, generally accepted meanings or the meanings given in the Act and in the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as follows:

(a) Act means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq., as may be amended.

(b) Additional Property means those lots as shown on the Plats for Lakeport Subdivision which are not subject to the terms of this Declaration, but which shall, upon execution of a consent form in accordance with terms of this Declaration, become a portion of the Property.

(c) Annual Assessment means the dues levied by the Association to the Permanent Members each year in accordance with Paragraph 7 hereof.

(d) Articles or Articles of Incorporation mean the Articles of Incorporation of the Lakeport Homeowners Association, Inc., as filed with the Secretary of State of the State of Georgia.

(e) Association shall mean Lakeport Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) Board or Board of Directors shall mean the elected body responsible for management and operation of the Association.

(g) Bylaws mean the Bylaws of the Lakeport Homeowners Association, Inc.

(h) Common Expenses mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, and operating any Common Property and otherwise for the benefit of all Permanent Member Lots.

(i) Common Property means any and all property owned, maintained or operated by the Association or easement in favor of the Association for the common benefit of the Permanent Members, including, but not limited to, signage, shrubbery and landscaping.

(j) Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Lakeport Subdivision. Such standard may be more specifically determined by the Board of Directors.

(k) Effective Date means the date as is further defined in Paragraph 4 hereof.

(l) Lakeport Subdivision means all lots shown on the Plats.

(m) Lot means a portion of the property as shown on the Plats for Lakeport Subdivision that is intended for ownership and use as a single-family dwelling site as shown on the said plats and subject to the terms of this Declaration.

(n) Occupant means any Person occupying all or any portion of a dwelling or other property located within the Property for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

(o) Owner means the record titleholder of a Lot subject to the terms of this Declaration, but shall not include a mortgage holder.

(p) Permanent Member means any Person who is the record owner of a fee or undivided fee interest in any Lot, and whose Lot is submitted to Permanent Membership in the Association by execution of this Declaration or by a consent form, recorded in the Gwinnett County, Georgia land records.

(q) Person means any individual, corporation, firm, association, partnership, trust, or other legal entity.

(r) Plats means those certain plats recorded in the plat records of Gwinnett County, Georgia in Plat Book 93, Page 242, Plat Book 95, Page 26 et. seq., Plat Book 95, Page 28, Plat Book 95, Page 82, Plat Book 95, Page 83 et. seq., Plat Book 96, Page 158, Plat Book 96, Page 77 and Plat Book 101, Page 64 et. seq.

(s) Property means that real estate in Lakeport Subdivision submitted to the provisions of this Declaration by the Owner's execution of this Declaration after the recording of this Declaration or by the recording of a consent form subsequent to the date of recording of this Declaration. The Property includes any Common Property. The Property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A § 44-3-220 et seq., as may be amended.

(t) Protective Covenants means that certain Declaration of Protective Covenants for Lakeport recorded in Deed Book 30099, Page 47, et seq., Gwinnett County, Georgia records.

(u) Special Assessments mean the amounts levied by the Association against the Permanent Members in accordance with Paragraph 7 hereof.

3. PROPERTY DESCRIPTION.

The Property subject to this Declaration is located in Land Lots 1 and 300 of the 5th and 4th District, respectively of Gwinnett County, Georgia, which is more particularly described in the signatory portion of this Declaration and in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. The Lots subject hereto are depicted on one of the Plats for the Lakeport Subdivision, which Plats are recorded in the Gwinnett County, Georgia land records as follows: Plat Book 93, Page 242, Plat Book 95, Page 26 et. seq., Plat Book 95, Page 28, Plat Book 95, Page 82, Plat Book 95, Page 83 et. seq., Plat Book 96, Page 158, Plat Book 96, Page 77 and Plat Book 101, Page 64 et. seq. All such Plats are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

Only the real property described in this Paragraph 3 is subject to this Declaration. However, by one or more consent forms executed by Owners of Lots in Lakeport Subdivision and the Association, which are substantially in the form set forth in Exhibit "B" hereto, other real property may be subject to this Declaration.

4. EFFECTIVE DATE.

This Declaration shall become effective upon recording in the Gwinnett County land records. Additional consents, by Owners of Lots within the Additional Property, may be recorded at any time and from time to time subsequent to the recording of this Declaration, subject to the terms of this Declaration. All consents shall be executed by at least one officer of the Association and recorded by the Association.

5. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

(a) Permanent Membership. Each Person who is the record owner of a fee or undivided fee interest in any Lot, and whose Lot is submitted to membership in the Association by execution hereof or by a consent form (as set forth herein) recorded in the Gwinnett County, Georgia land records, shall be a Permanent Member of the Association and shall be entitled to vote as set forth herein and in the Bylaws of the Association. Permanent Membership shall be appurtenant to and may not be separated from ownership of any such Permanent Member Lot.

(b) General Provisions. Persons who reside with Permanent Member(s) have the same privileges to use the Common Property of the Association as the Permanent Member and shall be subject to all restrictions governing the Common Property.

The definition of Permanent Member is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's Permanent Membership. There shall be no more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and

enjoyment shall be as provided in this Declaration and in the Bylaws. Any rights and privileges of membership, including the right to vote and to hold office, may be exercised by Permanent Members or their spouses.

(d) **Voting.** Permanent Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any such Lot, the vote for such Lot shall be exercised as those Owners determine among themselves and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

6. ASSOCIATION RIGHTS AND RESTRICTIONS.

The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of all other rights it may have:

(a) to make and to enforce reasonable rules and regulations governing the use of the Common Property in accordance with this Declaration and the Bylaws;

(b) to enforce the provisions of this Declaration, the Bylaws and any rules and regulations provisions concerning the Common Property by imposing reasonable fines consistent with Georgia law, by using self-help and suspending use and voting privileges and services paid for as a Common Expense, as provided herein and in Section 44-3-223 of the Act and by any other legal or equitable means. This Declaration shall not be limited by Lakeport Subdivision Plats or by the Protective Covenants. Any fines imposed shall be considered an assessment against the Lot. In case of any conflict between this Declaration and the Lakeport Plats or the Protective Covenants, this Declaration shall control;

(c) to control, manage, operate, maintain, replace and, in the Board's discretion, improve all portions of the Common Property and Association Easements for which the Association is assigned maintenance responsibility under this Declaration;

(d) to determine, in its discretion, the terms of use of the Common Property;

(e) to grant permits, licenses, utility easements, and other easements, permits, public rights-of-way or licenses necessary for the proper maintenance or operation of the Common Property and Association Easements under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Common Property;

(f) to deal with the Common Property in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of this Declaration;

(g) to represent the Permanent Members in dealing with governmental entities as to the Common Property and other matters;

(h) to acquire, hold and dispose of tangible and intangible personal property and real property; and

(i) to establish guidelines for Permanent Members; and

7. ASSESSMENTS.

(a) **General.** The Association shall have the power to levy assessments or dues against all Permanent Members as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of maintaining, repairing, replacing, insuring, managing, operating and, in the Board's discretion, improving the Common Property and Association easements, enforcing this Declaration, paying for utility services serving the Common Property and easements, maintaining a reserve fund for future Common Property and easement maintenance, repairs or improvements, and promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Permanent Members and Occupants of Lots in the Property, as may be more specifically authorized from time to time by the Board. Except as otherwise provided herein, each Lot is hereby allocated equal liability for Common Expenses.

(b) **Creation of the Lien and Personal Obligation For Assessments.** Each Permanent Member, by execution hereof or by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay

to the Association: (i) annual assessments (dues) or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, in the maximum amount permitted under the Act, shall be a charge on such Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner of a Lot and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

The lien provided for herein shall have priority as set forth in the Act. The sale or transfer of any Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments as to payments coming due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter coming due or from the lien thereof.

(c) Delinquent Assessments as to all Permanent Members. All assessments or dues and related charges not paid on or before the due date established by the Board shall be delinquent, and the Permanent Member shall be in default.

(i) If the annual assessments or any part or installment thereof is not paid in full within thirty (30) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid may be imposed without further notice or warning to the delinquent Permanent Member, and interest at the highest rate permitted under the Act shall accrue from the due date.

(ii) The Association, acting through the Board, may suspend the Permanent Member's right to use the Common Property if amounts remain unpaid for more than thirty (30) days, and institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, and the Act, if the amounts remain unpaid for more than sixty (60) days.

(iii) If part payment of assessments and related charges is made, the amount received shall be applied first to costs and attorneys fees, as applicable, and then, in order, to late charges, interest, delinquent assessments, and current assessments.

(iv) No Permanent Member may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever.

(d) Maximum Assessments; Computation of Operating Budget and Assessment. The annual assessment shall be established pursuant to a budget created and adopted by the Board, covering the estimated costs of maintaining and operating the Common Property and otherwise operating the Property during the coming year. The budget and notice of assessment shall be sent or delivered to each Permanent Member at least thirty (30) days prior to the due date of the annual assessment. The budget shall include amounts to cover anticipated Common Expenses of operating, maintaining, repairing, improving and managing all of the Common Property and Association easements, including insurance, legal, accounting and other professional fees, landscaping costs, and a reserve or capital contribution related to maintenance, repair, improvement and operation of the Common Property and easements. The budget and the assessment shall become effective unless disapproved at a duly called Association meeting by a vote of a majority of the total Association membership.

If the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. However, the Board may propose a new or adjusted budget at any time during the year by causing the proposed budget and assessment to be delivered to the members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the members, as provided in the Bylaws for special meetings, the new or adjusted budget and assessment shall take effect without a meeting of the members.

The budget shall not operate as a limitation on expenditures by the Board, but, rather, the budget is merely an estimate of Common Expenses on which the Board may base the annual assessments.

(e) Special Assessments. Notwithstanding anything in Paragraph 7(d) to the contrary, in addition to the annual assessment provided for above, the Board may at any time levy a special assessment for any purpose against all Permanent Members, notice of which shall be sent to such members; provided, however, prior to becoming effective, any special

assessment first shall be approved by the affirmative vote of at least two-thirds (2/3) of eligible Permanent Members present or represented by proxy at a duly called meeting, notice of which shall specify that purpose, and/or by ballot or consent specifying that purpose.

(f) **Capital Budget and Reserve Contribution.** As part of the annual budget and assessment, the Board may fix and establish an annual reserve or capital contribution, in an amount sufficient to permit meeting the projected capital and future needs of the Association.

(g) **Statement of Account.** Any Permanent Member, Mortgage holder, or a Person having executed a contract for the purchase of a Member Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, or such higher amount as authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

8. USE RESTRICTIONS.

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants. Also, all Persons entitled to enforce any covenants, conditions or restrictions, including, but not limited to those use restrictions which existed prior to the recording of this Declaration, shall be entitled to continue to do so.

Use restrictions regarding use of Lots and the Common Property are as follows and also as may be adopted by the Board in accordance with the terms hereof and as specified in the Bylaws.

(a) **Use of Common Property.** There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written Board consent, except as specifically provided herein or in the Association's rules and regulations.

(b) **Prohibition of Damage, Nuisance and Noise.** Without prior written Board consent, nothing shall be done or kept on the Property or any part thereof which would increase the rate of insurance on the Property or any Lot or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive, offensive or unsanitary activity shall not be carried on upon the Property. No Owner or Occupant may use or allow the use of the Lot or any portion of the Property at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Property. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

(i) Any fighting, raucous behavior or insobriety at the Property, if such conduct can be heard in the normal course of activities from within a dwelling on any other Lot;

(ii) The use of any alarm, equipment or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations, if such sounds can be heard or vibrations felt in the normal course of activities from within a dwelling on any other Lot;

(iii) Any threatening or intimidating conduct towards any resident, guest or pet at the Property;

(iv) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property at the Property, or which creates any threat to health or safety of any other resident or pet at the Property;

(v) Any conduct which creates any noxious odor, if such odor can be detected in the normal course of activities on any other Lot;

(vi) Any similar action or activity on the Property which unreasonably interferes with the peaceful use and enjoyment of other Lots or the Common Property by any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot; or

(vii) Any construction or similar activities on a Lot, between the hours of 9:00 p.m. and 7:30 a.m., which can be heard from within a dwelling on any other Lot.

However, nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof if the aggrieved Owner or Occupant has not personally pursued all available remedies against the violator for redress provided under Georgia law.

No Lot Owner or Occupant may use or allow the use of the Lot or the Common Property in any manner which creates noises between the hours of 11:00 p.m. and 7:30 a.m. which can be heard by persons in another Lot that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

No damage to or waste of the Common Property, or any part thereof, shall be permitted by any Owner or any Occupant, guest or invitee of any Owner. Each Owner and Occupant shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner or Occupant, or the Owner's or Occupant's guest or invitee.

(c) **Use of Lots.**

(i) **Residential Use.** Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within the dwelling so long as:

(A) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;

(B) the business activity does not involve visitation of the dwelling by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residential dwelling without business activity;

(C) the business activity conforms to all zoning requirements for the Property;

(D) the business activity does not increase traffic in the Property in excess of what would normally be expected for residential dwellings in the Property without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(E) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;

(F) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as determined in Board's discretion; and

(G) the business activity does not result in a materially greater use of common property facilities or Association services.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this subparagraph.

(ii) **Subdivision of Lots and Outbuildings.** No Lot may be subdivided into a smaller Lot and no structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Property, at any time, either temporarily or permanently, except with written Board approval.

(d) **Firearms and Fireworks.** The display or discharge of firearms or fireworks on the Common Property is prohibited; provided, however, that the display of lawful firearms on the Common Property is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1.

(e) **Pets.** No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Property, as determined by Gwinnett County Animal Control Ordinances.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors in unfenced areas or which are not fully enclosed by a physical fence. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property without prior written Board approval as provided in Paragraph 10 hereof. Feces left by pets upon the Common Property, on any Lot or in any dwelling, including the pet owner's Lot or dwelling, must be removed promptly by the owner of the pet or the person responsible for the pet. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, must be permanently removed from the Property upon seven (7) days' written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.

Any Owner or Occupant who keeps or maintains any pet on any portion of the Properties shall be deemed to have indemnified and agreed to hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Properties.

(f) **Parking.** Vehicles only may be parked in garages, driveways on Lots, designated parking spaces, or other areas authorized in writing by the Board. Vehicles may not be parked on any grass or landscaped areas on Lots. Disabled and stored vehicles are prohibited from being parked on the Property, except in garages. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Property, other than in a garage, for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, trucks with a load capacity of one (1) ton or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes or tool racks), and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Property, except in garages or other areas designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Property during normal business hours for the purpose of serving any Lot or the Common Property; provided, that, without the written consent of the Board, no such vehicle shall be authorized to remain on the Common Property overnight or for any purpose except serving a Lot or the Common Property.

If any vehicle is parked on any portion of the Property in violation of this subparagraph or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Property stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

(g) **Abandoned Personal Property.** Personal property, other than an automobile as provided for in subparagraph (f) of this Paragraph, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's dwelling, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

(h) **Signs.** Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee, except that two (2) professional security signs not to exceed six (6") inches by six (6") inches each in size may be displayed from within a dwelling on a Lot and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed from within a dwelling on a Lot being offered for sale or for lease. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time.

(i) **Rubbish, Trash, and Garbage.** All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Property, temporarily or otherwise, except as provided herein. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. The Board may establish regulations regarding placement of trashcans for pick-up.

(j) **Unsightly or Unkempt Conditions.** The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property, except within a dwelling. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and similar items may be kept outside of a dwelling.

9. LEASING AND OCCUPANCY.

To preserve the character of the Property as predominantly owner-occupied, the Leasing of Lots is prohibited, except by the Association and as may be provided herein. "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 (collectively referred to as "Authorized Occupant"); (2) an Authorized Corporate Occupant (defined below); or (3) a roommate of an Authorized Occupant or Authorized Corporate Occupant, when the Authorized Occupant or Authorized Corporate Occupant occupies the Lot as his or her primary residence. An 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 designated in writing to the Board and 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.

Leasing of Lots is allowed only by: (1) an Owner who has received a Hardship Permit as provided below; or (2) the Association. Hardship Permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners (including a subsequent Owner of a Lot where such permit was issued to the Owner's predecessor-in-title).

If the inability 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 Permit. The Board may approve or deny an Owner's request for a Hardship Permit 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 such permit is issued; (3) the number of outstanding Hardship Permits; (4) the Owner's ability to cure the hardship; and (5) whether previous Hardship Permits have been issued to such Owner.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) when the Board determines that an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six 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; (2) when the Board determines that an Owner must temporarily relocate out of the metropolitan-Atlanta area for employment purposes and intends to return to reside in the Lot within one year; or (3) an Owner dies and the Lot is being administered by his or her estate.

Unless otherwise determined by the Board, a Hardship Permit authorizes an Owner to lease the Lot once for a term not to exceed one year. Hardship Permits are automatically revoked 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 such permit; or (3) the occupancy of the Lot by the Owner. An Owner may apply for an additional Hardship Permit at the expiration or revocation of a previous one.

A Hardship Permit shall not be issued to any Owner if the Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge or if the Owner is in violation of the Association Legal Instruments or rules.

(a) **General Leasing Provisions.**

(i) **Notice and Approval.** All leases shall be in writing and in a form approved by the Board of Directors prior to the effective date of the lease. At least seven days before entering into a lease, the Owner shall provide the Board with: (1) a copy of the proposed lease; (2) the names, phone numbers, work locations and work phone numbers of the proposed tenants and all other Occupants of the Lot; (3) the Owner's primary residence address and phone number, work location and work phone number; and (4) such other information required by the Board. If the form of a lease is disapproved, the Board shall notify the Owner what changes are required to bring the lease into compliance with the Association Legal Instruments and rules. Nothing herein gives the Board 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. Within 10 days after executing a lease for a Lot, the Owner shall provide the Board with a copy of the executed lease.

(ii) **Lease Terms.** Lots may be leased only in their entirety; no rooms or fractions of Lots may be leased without prior written Board approval. 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 one year, except with written Board approval.

(iii) **Liability for Assessments; Compliance.** The Owner must provide the tenant copies of the Association Legal Instruments and rules. The following provisions are incorporated into each lease of any Lot, whether or not expressly stated therein:

(A) **Compliance with Association Legal Instruments and Rules.** All terms defined in the Declaration of Permanent Membership for Lakeport Subdivision are incorporated herein by this reference. The Owner and each tenant and Occupant shall comply with all provisions of the Association Legal Instruments and rules. The Owner and tenant also are responsible for violations by any Occupants and guests of the Lot; notwithstanding the fact that such Occupants are fully liable and may be sanctioned for any such violation.

If a Lot is leased or occupied in violation of the Association Legal Instruments or rules, or if the Owner, tenant, Occupant or guest violates the Association Legal Instruments or rules, the Association's Board of Directors shall be authorized to take all enforcement actions against the Owner, tenant and/or Occupant authorized under the Association Legal Instruments or rules.

(B) **Liability for Assessments.** When an Owner who is leasing his or her Lot fails to pay an assessment or any other charge to the Association when due, the delinquent Owner hereby consents to the assignment of any rent received from the tenant during the period of the delinquency. In such case, upon request by the Board, the tenant shall pay to the Association all unpaid 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. 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.

(C) **Enforcement.** If a Lot is leased or occupied in violation of the Association Legal Instruments or rules, or if the Owner, Occupant or guest violates the Association Legal Instruments or rules, such violation is deemed to be a default under the terms of any lease or occupancy. In addition to all other remedies permitted by this Declaration, such default authorizes the Owner and/or the Association, as the Owner's delegate and attorney-in-fact, to terminate the lease and/or occupancy and to evict all Occupants, without liability, in accordance with Georgia law. The Association also may require the Owner to evict the Occupants.

(b) **"Grandfathered Owner"** means an Owner who is lawfully leasing his or her Lot on the Effective Date. To qualify as a Grandfathered Owner, 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. Grandfathering shall automatically expire and any lease of the Lot shall automatically terminate on the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot to any Person (other than the Owner's spouse); (2) the date the Owner occupies the Lot as his or her primary residence; (3) the date that all current Occupants of the Grandfathered Lot vacate and cease to occupy the Lot; or (4) any termination, renewal, modification or extension of the existing lease;

"Grandfathered Lot" means the Lot owned by a Grandfathered Owner on the Effective Date hereof.

10. MAINTENANCE.

(a) **Association's Responsibility.** The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement subject to any insurance then in effect, of all landscaping grass areas, paving and other improvements situated on the Common Property. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve the Common Property, to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard. The Association shall have the right, but not the obligation, to maintain public rights of way adjacent to the Property and other property not owned by the Association if the Board determines that such maintenance would benefit the Property.

(b) **Owner's Responsibility.** Each Owner shall maintain and keep his or her Lot and dwelling in good repair, condition and order. In addition, each Owner shall maintain any public right of way located between the Owner's Lot and the curb of the street(s) bordering such Lot. Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Each Owner shall perform his or her responsibility hereunder in such manner so as not to unreasonably disturb other Lot Owners.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Property or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

(c) **Failure to Maintain.** If the Board determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists, the Owner shall have thirty (30) days within which to complete maintenance or repair. If the maintenance or repair is not capable of completion within such time period, the Association may allow additional time for the completion of such maintenance or repairs so long as the Owner provides a reasonable explanation of the delay to the Association in writing. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be an assessment and lien against the Owner and the Lot. If, during the course of performing its maintenance responsibilities hereunder, the Association discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's expense, without prior notice to the Owner, such being deemed an emergency situation hereunder.

If the Board determines that the need for maintenance or repair is on the Common Property and is caused through the willful or negligent act of any Owner or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Lot, which shall become a lien against the Lot and shall be collected as provided herein for the collection of assessments.

(d) **Maintenance Standards and Interpretation.** The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Paragraph. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board. The Association shall maintain, keep in good repair and, in the Board's discretion, improve the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all structures, landscaping, grass areas, paving and other improvements situated on the Common Property. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

11. INSURANCE.

The Association's Board or its duly authorized agent shall have the authority to and, if reasonably available, shall obtain insurance for all insurable improvements, if any, on the Common Property. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its members.

The Board, in its reasonable discretion, also may maintain as a Common Expense a fidelity bond or similar coverage on directors, officers, employees or other Persons handling or responsible for the Association's funds, in an amount determined in the Board's business judgment.

12. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Common Property as a result of fire or other casualty, unless eighty (80%) percent of the Members vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

(a) **Cost Estimates.** Immediately after a fire or other casualty causing damage to the Common Property, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures thereon to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(b) **Source and Allocation of Proceeds.** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Members without the necessity of a vote of the Permanent Members. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

(c) **Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Common Property was originally constructed, except where changes are necessary to comply with current applicable building codes.

(d) **Construction Fund.** The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Permanent Members on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board.

13. MORTGAGEE'S RIGHTS.

(a) **Mortgagee Approval of Actions.** Unless at least two-thirds (2/3) of either the holders of first Mortgages on Member Lots or the Member Lot Owners give their consent, the Association shall not:

- (i) by act or omission seek to abandon or terminate the Association;
- (ii) change the pro rata interest or obligations of any individual Member Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;
- (iii) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility or public easements or rights-of-way shall not be deemed a transfer within the meaning of this provision); or
- (iv) use hazard insurance proceeds for losses to any portion of the Common Property for other than the repair, replacement, or reconstruction of such portion of the Common Property.

(b) **Mortgage Assessments Upon Foreclosure of a Lot.** Where the Mortgagee holding a first Mortgage of record on a Member Lot or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all Permanent Members, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) **Mortgage Notices.** Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any Eligible Mortgage Holder of a Member Lot will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of the Common Property or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder;

(ii) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Lot Owner of any other obligation under the Declaration or bylaws which is not cured within sixty (60) days;

(iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

Any holder of a first Mortgage on a Member Lot shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

14. ENFORCEMENT.

(a) **Authority and Enforcement.** The Common Property shall be used only for those uses and purposes set out in this Declaration. Copies of all such rules and regulations shall be furnished to all Permanent Members and Occupants of Lots.

Every Permanent Member and Occupant, shall comply with the Declaration, Protective Covenants, Bylaws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, Protective Covenants, Bylaws or rules and regulations through any legal or equitable remedy.

The Board shall have the power to impose reasonable fines against Permanent Members, which shall constitute a lien upon the Lot, and to suspend a Permanent Member's right to vote or to use the Common Property for violation of any duty imposed under this Declaration, Protective Covenants, the Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. If any Occupant violates the Declaration, Protective Covenants, Bylaws or Association rules and a fine is imposed, the fine may be imposed against the Permanent Member and/or Occupant. The failure of the Board to enforce any provision of the Declaration, Protective Covenants, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(b) **Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, Protective Covenants, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in the Bylaws.

The Association or its duly authorized agent shall have the power to enter upon any portion of the Property and Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, Protective Covenants, the Bylaws, or the rules and regulations. All costs of self-help or of otherwise

enforcing the Declaration, Protective Covenants, Bylaws or Association rules, including reasonable attorney's fees, shall be assessed against the violating Permanent Member.

Each Member shall be responsible for ensuring that the Member's family, guests, tenants and occupants comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association. In addition to any rights the Association may have against the Member's family, guests, tenants or occupants, the Association may take action under this Declaration against the Member as if the Member committed the violation in conjunction with the Member's family, guests, tenants or Occupants.

15. EASEMENTS.

The Association's Board of Directors and its authorized agents shall have an easement of entry on each Permanent Member Lot for the purpose of inspecting and Lot as provided for herein and in the Protective Covenants and for the purpose of enforcing the provisions of this Declaration and the Protective Covenants.

16. GENERAL PROVISIONS.

(a) **Security.** The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Property; however, each Permanent Member, for himself or herself and his or her Occupants, tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Property or elsewhere. It shall be the responsibility of each Permanent Member to protect his or her person and property and all responsibility to provide security shall lie solely with each Permanent Member and/or Occupant. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) **Submission of Common Property.** Any Common Property owned by the Association shall be deemed submitted to this Declaration pursuant to execution of this Declaration by the Association.

(c) **Indemnification.** The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

(d) **No Discrimination.** No action shall be taken by the Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

(e) **Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration, Protective Covenants, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

(f) **Dispute Resolution.** All Permanent Members must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute and submit the dispute to formal mediation before the Permanent Member files any lawsuit against the Association, the Board, any officer or director, or the property manager of the Association. The Permanent Member shall, in such notice and at the hearing and the mediation session, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Permanent Member's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall

schedule this hearing for a date not less than seven (7) and no more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing. If mediation is required, the mediation shall be conducted in accordance with the Mediation Rules of the Superior Court of Gwinnett County and the parties shall share the costs equally.

17. AMENDMENTS.

Except where a higher vote is required for action under any other provisions of this Declaration, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of Permanent Members of the Association holding sixty-six and two-thirds (66 2/3%) percent of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Gwinnett County, Georgia land records.

In addition to the above, amendments to this Declaration which materially affect the rights of Eligible Mortgage Holders must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Member Lots that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time. The preambles to this Declaration are incorporated herein by this reference.

18. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

19. DURATION.

The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

20. BYLAWS AND ARTICLES OF INCORPORATION.

Each Person who executes this Declaration also agrees and consents to the Amended and Restated Bylaws for Lakeport Homeowners Association, Inc. ("Bylaws")

21. PREPARER.

This Declaration was prepared by Marilyn M. Ratzel, Esq., Weissman, Nowack, Curry & Wilco, P.C., 3500 Lenox Road, 4th Floor, Atlanta, Georgia 30326; (404) 926-4614; Email: marilynratzel@wncwlaw.com.

IN WITNESS WHEREOF, the Board of Directors and undersigned Owners of Lots as set forth below have approved recording of this Declaration of Permanent Membership for Lakeport and the signature pages to follow:

LAKEPORT HOMEOWNERS ASSOCIATION, INC.

By: _____[SEAL]
President

Attest: _____[SEAL]
Secretary

[CORPORATE SEAL]

Signed, sealed, and delivered
this _____ day of _____,
20____ in the presence of:

WITNESS

NOTARY PUBLIC

[ADDITIONAL SIGNATURES ON FOLLOWING PAGES]

[Additional signatory to Declaration]

The undersigned Owner(s) is/are the record Owner(s) and holder of title in fee simple to a Lot within the Lakeport Subdivision in Gwinnett County, Georgia, located at the address described below, and more particularly shown as Lot _____ in Land Lot _____, _____ District, and as shown on the Plat of survey for Lakeport Subdivision recorded in Plat Book _____, Page _____, Gwinnett County, Georgia records such plat being incorporated herein by this reference. Owner(s) also hereby consents to the adoption of the Bylaws of the Lakeport Homeowners Association, Inc.

Signed, sealed and delivered
this _____ day of _____,
20____.

Witness

[NOTARY SEAL]

Signature of Owner

Print or Type Full Name of Owner

Street Address

Signed, sealed and delivered
this _____ day of _____,
20____.

Witness

[NOTARY SEAL]

Signature of Co-Owner

Print or Type Full Name of Owner

[List of Submitted Lots]

[List of Submitted Lots]

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EXHIBIT "B"

Return to: Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center; 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
Attn: MMR

**STATE OF GEORGIA
COUNTY OF GWINNETT**

Index in Grantor Index Owner's Name(s): _____
Index in Grantor and Grantee Index Also Under:
Lakeport Homeowners Association, Inc.

Cross Reference to Owner's Deed: Deed Book _____
Page _____

Cross Reference to Lakeport Subdivision: Deed Book _____
Page _____
Plat Book _____
Page _____

**CONSENT FORM TO THE DECLARATION OF PERMANENT MEMBERSHIP FOR
LAKEPORT SUBDIVISION AND
OWNER SUBMISSION TO MEMBERSHIP IN LAKEPORT HOMEOWNERS ASSOCIATION, INC.**

WHEREAS, the undersigned owner(s) (hereinafter referred to as "Owner") is the record owner and holder of title in fee simple to a Lot within Lakeport Subdivision in Gwinnett County, Georgia, located at the address described below, and more particularly shown as Lot _____, as located in Land Lot _____, _____ District of Gwinnett County, Georgia as shown on the plat of survey for Lakeport recorded in Plat Book _____, Page _____, Gwinnett County, Georgia records (hereinafter "Owner's Property") such plat being incorporated herein by this reference; and

WHEREAS, Owner desires to submit and/or convert Owner's Property to the Declaration of Permanent Membership for Lakeport as recorded at Deed Book _____, Page _____ *et seq.* ("Declaration") as a Permanent Member of the Association, as defined in the Declaration;

NOW, THEREFORE, Owner does hereby consent, on behalf of Owner, Owner's successors, successors-in-title, heirs, and assigns, that from and after the date of this Consent, Owner's Property shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to all of the terms, provisions, covenants, and restrictions contained in the Declaration as a Permanent Member of the Association, all of which shall run with the title to Owner's Property and shall be binding upon all persons having any right, title, or interest in Owner's Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Owner understands and acknowledges that, by submitting Owner's Property to Permanent Membership (as defined in the Declaration) in the Association, Owner is hereby subjecting Owner's Property to mandatory assessments in favor of the Association, with lien rights afforded therefor, in accordance with the Declaration.

Owner does further consent to the submission of any Common Property (as set forth in the Declaration) to the Declaration.

Signed, sealed and delivered
this _____ day of _____, 20____

Witness

Notary Public
[NOTARY SEAL]

Signature of Owner

Print or Type Full Name of Owner(s)

Signature of Co-Owner

Street Address

THIS PORTION TO BE COMPLETED BY ASSOCIATION UPON RETURN FROM OWNERS:

Signed, sealed, and delivered **Approved by:**
LAKEPORT HOMEOWNERS ASSOCIATION, INC. this ____ day of ____, 20____

Witness

Notary Public [NOTARY SEAL]

By: _____
President

[CORPORATE SEAL]

[For Subsequent Additions]