

**Please note – this is a draft of the Amendment to the Declaration. This proposed Amendment is not effective until approved by the requisite number of owners and recorded in the county land records.**

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[Space above reserved for recording data.]

Return to: Pankey & Horlock, LLC  
4360 Chamblee Dunwoody Road, Suite 500  
Atlanta, Georgia 30341-1055  
Attn: Laura C. Horlock, Esq.

STATE OF GEORGIA  
COUNTY OF CHEROKEE

Reference: Deed Book 4508, Page 273  
Deed Book 8662, Page 225

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR BROOKSHIRE TO SUBMIT BROOKSHIRE  
TO THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT**

THIS SECOND AMENDMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2016  
by BROOKSHIRE HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation  
(hereinafter referred to as "Association").

**WITNESSETH**

WHEREAS, Pulte Home Corporation, as Declarant, executed that certain Declaration of Covenants and Restrictions for Brookshire, which was recorded on March 27, 2001, in Deed Book 4508, Page 273, *et seq.*, Cherokee County, Georgia records (as supplemented or amended from time to time collectively referred to as the "Declaration"); and

WHEREAS, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS the Association and owners desire to amend the Declaration as set forth herein to submit the property subject to the Declaration to the Georgia Property Owners' Association Act and intend for this Amendment to be prospective only; and

WHEREAS, Article IX of the Declaration provides that the Declaration may be amended upon the approval of: (a) those members of the Association who own, in the aggregate, no fewer than sixty-seven percent (67%) of the Lots not owned by the Declarant, (b) the Declarant, if the Declarant shall then own any Lot or any other portion of the Brookshire Property, and (c) HUD and VA if the Class B membership has not terminated as provided for in Article IV, Section of the Declaration; and

WHEREAS, further pursuant to Article IX of the Declaration, the approval of any amendment by the members of the Association shall be given by such member either by casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such member signing a written approval of such amendment after the date on which such meeting was held; and

WHEREAS, the members of the Association holding at least sixty-seven percent (67%) of the eligible votes have agreed to amend the Declaration as hereinafter provided; and

WHEREAS, the Declarant does not own any Lot or any other portion of the Association Property; and

WHEREAS, the Class B Membership has terminated as provided in Article IV, Section 3 of the Declaration; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement certifies that the consent of the required number of members was lawfully obtained; and

NOW THEREFORE, the undersigned hereby adopt this Second Amendment to the Declaration of Covenants and Restrictions for Brookshire, hereby declaring that all of the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

The Declaration is hereby amended by adding to the end of Article II of the Declaration a new Section 6 entitled, "Submission to Georgia Property Owners' Association Act; Conflict", to read as follows:

Section 7. Submission to Georgia Property Owners' Association Act; Conflict.  
The property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* (the "Act") as the Act may be amended from time to time. In the event of a conflict between the provisions of this Declaration and the provisions of the Act, then to the extent that the provisions the Act cannot be waived by agreement, the Act shall control.

2.

Unless otherwise defined herein, the words used in this Amendment shall have the same meaning as set forth in the Declaration.

3.

This Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Cobb County, Georgia.

4.

Except as herein modified, the Declaration shall remain in full force and effect.

5.

This Amendment shall be prospective only and shall be enforceable against current owners of all Lots subject to the Declaration

IN WITNESS WHEREOF, the Association has caused this Second Amendment to be executed under seal, the day and year first written above.

Signed, sealed, and delivered  
This the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**BROOKSHIRE HOMEOWNERS  
ASSOCIATION, INC.**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (seal)  
President

\_\_\_\_\_  
Notary Public  
[Notary Seal]

Attest: \_\_\_\_\_ (seal)  
Secretary

[Corporate Seal]

**EXHIBIT "A"**

**Sworn Statement of Secretary of Brookshire Homeowners Association, Inc.**

**STATE OF GEORGIA  
COUNTY OF CHEROKEE**

Re: Brookshire Homeowners Association, Inc.

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the Secretary of Brookshire Homeowners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his or her own personal knowledge.
3. The foregoing Second Amendment to Declaration of Covenants and Restrictions for Brookshire was approved by affirmative vote in a meeting called for such purpose by or written approval of members of the Association after the date of such meeting who own in the aggregate sixty-seven (67%) percent of the Lots not owned by the Declarant.
4. Deponent makes this Affidavit pursuant to O.C.G.A. § 44-3-222 and Article IX of the Declaration.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Secretary

Printed Name: \_\_\_\_\_

Sworn to and subscribed before me this  
\_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:

[AFFIX NOTARY SEAL]