

## Proposed Declaration Amendments

1. **Submission to the POA – Declaration Article II, Section**  
**The amendment will add the following to the end of Article II:**

***Section 6. 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. **New Definitions – Declaration Article I**  
**The amendment will add the following new definitions to the Declaration:**

*"Act" shall mean and refer to the Georgia Property Owner's Association Act, O.C.G.A. § 44-3-220, et seq., as such Act may be amended from time to time.*

*"Community" means that Brookshire Property which has been and is submitted to the Act and is subject to the provisions of this Declaration, as described in Exhibit A attached the Declaration and incorporated herein by reference. The Community 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.*

*"Owner" means one or more Persons who are record title owners of a Lot.*

3. **Suspension of Membership Rights – Declaration Article IV, Section 4**  
**The amendment will replace Article IV, Section 4 with the following:**

***Section 4. Suspension of Membership Rights.** The membership rights of any member of the Association, including the right to vote and to use the Association Property, may be suspended by the Board of Directors pursuant to the authority granted in this Declaration and the Bylaws; provided however that if any assessments or other charges, or any part thereof, remain unpaid for more than 30 days after the due date, then the Owner's right to vote and use the Association property are suspended automatically as set forth in Article V, Section 7 of this Declaration. Any such suspension shall not affect such member's obligation to pay assessments or other charges owed to the Association and shall not affect the charge and continuing lien upon the Member's Lot in favor of the Association.*

**4. Assessments – Declaration Article V, Sections 1 through 3**  
**The amendment will replace the current Sections 1, 2, and 3 with the following:**

**Section 1. Purpose of Assessment.** *The Association shall have the power to levy assessments as provided herein and in the Act. Assessments shall be used for any purpose the Board of Directors determines will benefit the Association, the Owners, or the Community.*

**Section 2. Obligation for Assessments.** *Each Owner of any Lot, 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 all assessments and charges levied pursuant to this Declaration and the Bylaws including:*

- (a) Annual Assessments and charges;*
- (b) Special Assessments as provided for herein; and,*
- (c) Specific Assessments levied by the Board of Directors hereunder against any particular Lot, including but not limited to reasonable fines imposed hereunder and assessments levied pursuant to Article V, Section 8 of this Declaration.*

**Section 3. Creation of Lien and Personal Obligation for Assessments.** *All assessments and charges levied against Lot and its Owner, together with interest, late fees, costs and reasonable attorneys' fees actually incurred (including post-judgment attorneys' fees, costs and expenses), and rents (if the Board of Directors so elects), in the maximum amounts permitted under the Act, shall be: (1) a charge and a continuing lien against such Lot; and (2) the personal obligation of the Person who is the Owner of the Lot on the due date of the assessment. Each Owner 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 of the Lot. The Association, in the Board's discretion, may record a notice of such lien in the Cherokee County, Georgia land records evidencing the lien created under the Act and this Declaration. The lien provided for herein shall have priority as provided in the Act.*

*Assessments shall be paid in such manner and on such dates as determined by the Board of Directors. No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever.*

**5. Non-Payment of Assessments – Declaration Article V, Section 7**  
**The amendment will replace Section 7 with the following:**

**Article V, Section 7. Effect of Non-Payment of Assessments; Remedies of the Association.** *All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.*

*If any assessment or charge, or any part or installment thereof, is not paid in full within 10 days of the due date, or such later date as may be provided by the Board of Directors:*

(a) a late charge equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner;

(b) interest at the rate of 10% per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date;

(c) the Board of Directors may accelerate and declare immediately due any unpaid installments of that member's assessments and charges. Upon acceleration, the member shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such privilege; and,

(d) any and all costs of collection, including court costs, the expenses required for the protections and preservation of the Lot, and reasonable attorneys' fees and costs actually incurred (including post-judgment attorneys' fees, costs and expenses), shall be imposed without further notice.

If assessments or other charges, or any part thereof, remain unpaid more than 30 days after the due date, the Owner's right to vote and use the Association Property are suspended automatically until all amounts owed are paid in full or the Board of Directors otherwise reinstates such rights in writing.

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

**6. Specific Assessments – Declaration Article V**

**The amendment will add the following new Sections 8 and 9 to the end of Article V:**

**Article V, Section 8. Specific Assessments**

*Notwithstanding the above, the Board of Directors shall have the power to levy specific assessments pursuant to O.C.G.A. § 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.*

**Article V, Section 9. Capital Contribution Assessment Upon Transfer of Lot.** *In addition to the annual, special, specific, and other assessments provided for in the Declaration, the purchaser or grantee of every Lot subject to this Declaration on the recording date hereof, and all Lots submitted to this Declaration on or after the recording date hereof, shall be assessed and be subject to a non-refundable Capital Contribution Assessment. The Capital Contribution*

*Assessment shall be collected at the closing of each and every conveyance or transfer of the Lot to any Person other than to the spouse or heir of the Owner. The Capital Contribution Assessment shall be in an amount equal to annual assessment on the Lot in effect at the time of the closing when the Capital Contribution Assessment is due. The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Lot, a continuing lien against such Lot, and a personal obligation of the Owner of such Lot.*

**7. Amending the Declaration – Declaration Article IX**  
**The amendment will replace Article IX with the following:**

**ARTICLE IX. AMENDMENT.**

**Section 1. Member Approval Procedure.** *Except where a higher vote is required for action under any other provisions of the Declaration, these Bylaws or by the Act, this Declaration may be amended with the approval of sixty-seven percent (67%) of the total eligible Association vote, by affirmative vote or written consent or combination 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 Cherokee County, Georgia land records.*

**Section 2. Default Approval Procedure after Owner Non-response.** *It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending the Declaration or these Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.*

*The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of this Declaration. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.*

*If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot,*

as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

**Section 3. Amendment by Board of Directors.** Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with 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").

**Section 4. Validity of Amendments.** If legal action is not instituted to challenge the validity of this Declaration or any amendment hereto within one (1) year of the recording thereof in the Cherokee County, Georgia land records, then such amendment or document shall be presumed to be validly adopted.

**8. Notices and Electronic Communications – Declaration Article X, Section 4**  
**The amendment will replace Section 4 with the following:**

**Article X, Section 4. Notices and Electronic Communications**

**(a) Method of Giving Notices.** Unless otherwise prohibited by the Declaration or Bylaws and unless otherwise required by the Act, all notices and other communications required by the Declaration or Bylaws shall be in writing and shall be given by one of the following methods:

- (i) Personal delivery;
- (ii) United States mail, first class, postage prepaid;
- (iii) Statutory overnight delivery;
- (iv) Electronic mail; or
- (vi) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

**(b) Address for Notices.** Notices given by any of the methods (i) through (iv) described above shall be given:

- (i) If to an Owner, to the address, or electronic mail address that the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Lot of such Owner;
- (ii) If to an occupant who is not an Owner, to the address, or electronic mail address that the occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Lot occupied; or
- (iii) If to the Association, the Board of Directors or the managing agent, to the address or the electronic mail address of the principal office of the Association or the managing

agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Owners of any such change in address.

(c) **Electronic Communications.**

(i) **Records and Signatures.** Whenever the Declaration or Bylaws require that a document, record or instrument be “written” or “in writing,” the requirement is deemed satisfied by an electronic record if the Board of Directors affirmatively determined and placed the decision within its minutes permitting an electronic record or document as a substitute for a written item. The Association may utilize electronic communications for all communications between the Association and Owners and other residents including, but not limited to, meeting notices, violation notices, and assessment notices.

Whenever the Declaration or the Bylaws require a signature on a document, record or instrument, an electronic signature satisfies that requirement only if: (a) the Board of Directors has affirmatively published regulations permitting an electronic signature as a substitute for a written signature; and (b) the electronic signature is easily recognizable as a secure electronic signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (c) the Board of Directors reasonably believes that the signatory affixed the electronic signature with the intent to sign the electronic document, and that the electronic document has not been modified since the signature was affixed.

(ii) **Verification and Liability for Falsification.** The Board of Directors may require reasonable verification of any electronic signature, document, record or instrument. Absent or pending verification, the Board may refuse to accept any electronic signature or electronic record that, in the Board’s sole discretion, is not clearly authentic. Neither the Board of Directors nor the Association shall be liable to any Owner or any other Person for accepting or acting in reliance upon an electronic signature or electronic record that the Board reasonably believes to be authentic, or rejecting any such item which the Board reasonably believes not to be authentic. Any Owner or Person who negligently, recklessly or intentionally submits any falsified electronic record or unauthorized electronic signature shall fully indemnify the Association for actual damages, reasonable attorneys’ fees actually incurred and expenses incurred as a result of such acts.