

STATE OF GEORGIA
COUNTY OF CHEROKEE

Return To:
Rome & Associates, P.C.
707 Whitlock Ave., Ste E-15
Marietta, Georgia 30064
(770) 428-6002

Cross Reference: Deed Book 3902, Page 205

(Space Above Reserved for Recording Data)

**FIRST AMENDMENT TO THE DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR ROSEBURY**

THIS FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ROSEBURY (“Declaration”) is made on the date hereinafter set forth by the Rosebury Community Association, Inc. (hereafter referred to as the “Association”).

WITNESSETH

WHEREAS, Declarant, Arbor Hill, LLC, executed that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Rosebury which was recorded on November 17, 1999, in Deed Book 3902, Page 205, *et seq.*, in the public land records of Cherokee County, Georgia (hereinafter referred to as the “Original Declaration”); and

WHEREAS, Article 11, Section 11.6 provides for the amendment of the Original Declaration by the affirmative vote or written consent of Owners of at least two-thirds (2/3rds) of the Lots and the consent of Declarant, if still required under Article 11, Section 11.5; and

WHEREAS, at least two-thirds of the Owners have signed a Written Consent in favor of this First Amendment to the Declaration of Covenants, as sworn and affirmed to by the signatures of the Association’s President and Secretary, with the consent of the Declarant, if still required by the Original Declaration; and

WHEREAS, Exhibit “C” to the Original Declaration contains the Bylaws of Rosebury Community Association, Inc., and Article 6, Section 6.4 of the Bylaws provides that the Bylaws may be amended by the affirmative vote of at least two-thirds (2/3rds) of the Total Association Vote and the consent of Declarant; and

WHEREAS, at least two-thirds of the Total Association Vote have signed a Written Consent in favor of the following Amendment to the Bylaws of Rosebury Community Association, Inc. as sworn and affirmed to by the signatures of the Association's President and Secretary, with the consent of the Declarant, if still required by the Original Declaration; and

WHEREAS, this Amendment is not material with respect to first mortgagees in that it does not materially and adversely affect the security title or interest of any first Mortgagee; provided, however, in the event a court of competent jurisdiction determines that this amendment does materially and adversely affect the security title or interest of any first Mortgagee without such first Mortgagee's consent to this amendment, then this Amendment shall not be binding on the first Mortgagee so involved, unless such first Mortgagee consents to this amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to the affected first Mortgagees.

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

1.

Article 7, Use Restrictions and Rules, Section 7.4 entitled "Vehicles; Parking," of the Original Declaration is hereby amended by deleting the language of that Section in its entirety and substituting the following:

7.4 Vehicles; Parking. Vehicles shall be parked only in appropriate parking spaces serving the Lot or other designated areas, if any. No on-street parking, other than in connection with special events as approved by the Board of Directors, shall be permitted within the Community. All parking shall be subject to such rules and regulations as the Board may adopt. The term "vehicles," as used herein, shall include, without limitation, ATV's, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans and automobiles. The term "parking areas" shall refer to the number of garage parking spaces and the spaces located in the driveway of each Lot. All homes shall contain a garage; carports shall not be permitted. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage.

No vehicle may be left upon any portion of the Community, except in a garage or other parking area designated by the Board, for a period longer than five (5) days if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. After such five-day period, such vehicle may be removed from the Community by the Board of Directors, and the costs of the removal shall be charged to the Owner of the Lot. Any towed vehicle, ATV, boat, personal watercraft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go-cart, golf cart, commercial truck, camper, bus or mobile home stored in the Community or temporarily kept in the Community, except if kept in a garage, for periods longer than five (5) days may be removed from the Community by the Board of Directors, and the costs of the removal shall be charged to the Owner of the Lot. A written waiver for an additional two (2) Days may be obtained from the Board of Directors, if necessary. A homeowner found to be intentionally exploiting the parameters of these terms, as determined by the Board, will lose the

privilege of maintaining his/her vehicle for the five (5) day period. Trucks with mounted campers, which do not have a bathroom or cooking appliance, which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation, and the camper is stored out of public view upon removal. No eighteen wheel trucks, or the cabs of such trucks, or trucks with a load capacity in excess of one ton shall be parked within the Community, except during the time reasonably necessary to provide service or delivery within the Community.

2.

Article 7, Use Restrictions and Rules, Section 7.4 entitled “Vehicles; Parking.” of the Original Declaration is hereby amended by adding a new Subsection 7.41, which reads as follows:

7.41 Permanent Parking For Vehicles Commonly Referred To As Open Utility Trailers/Landscape Trailers; OR Permanent Parking Of A Boat And/Or Boat Trailer For The Intended Use On Rosebury Community Pond.

Notwithstanding the language of Section 7.4, an Owner may keep on their property either a trailer, OR a boat/trailer, NOT both, provided they abide by the following rules and specifications:

7.41a: Permanent Parking for vehicles commonly referred to as open utility trailers/landscape trailers:

- One (1) open utility trailer or landscape trailer shall be permitted per household.
- Trailer bed is not to exceed 8' x 12' in size.
- Trailer is to be owned and licensed by the homeowner.
- Trailer is to be kept in a neat and orderly condition.
- Trailer is to be parked out of view when viewed from directly in front of the dwelling. Trailer must be behind an imaginary line parallel to the back of the dwelling unless additional screening (plants, vehicle cover and/or fencing) is present. Additional screening may be required at the Board's discretion.

7.41b: Permanent Parking for a boat and/or boat trailer for the intended use on Rosebury Community Pond:

- One (1) boat and/or boat trailer shall be permitted per household.
- The boat trailer must be used for transporting the boat for use in the Rosebury Community Pond.
- The boat is not to exceed 14 feet in size from bow to stern.
- Boats with gas motors shall not be permitted.
- The boat and/or boat trailer must be owned by the homeowner.
- The boat and/or boat trailer must be kept in a neat and orderly condition.
- The boat and/or boat trailer is to be parked out of view when viewed from directly in front of the dwelling. The boat and/or boat trailer must be behind an imaginary line parallel to

the back of the dwelling unless additional screening (plants, vehicle cover and/or fencing) is present. Additional screening may be required at the Board's discretion.

3.

Article 3, BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS; Section 3.5 entitled "Election and Term of Office." of the Bylaws Rosebury Community Association, Inc., Exhibit "C" to the Original Declaration is hereby amended by deleting it in its entirety and replacing it with the following language:

3.5 Election and Term of Office. Each Director shall hold office for two (2) years, and shall continue in office until their respective successors shall have been elected and take office. Directors shall be elected at the Annual Meetings of the Membership (or pursuant to Section 2.12 or Section 2.13 in lieu of a meeting), and the candidate(s) receiving the most votes shall be elected. However, in order to provide for staggered terms at the first election after this amendment passes, one Director shall be elected for a term of three (3) years; one Director shall be elected for a term of two (2) years; and one Director shall be elected for a term of one (1) year – the candidate with the most votes shall be elected to the three-year term, and the candidate with the next highest vote total shall be elected to the two-year term.

All other provisions of the Original Declaration remain unchanged.

[Remainder of Page is left blank. Signatures on Next Page.]

IN WITNESS WHEREOF, this First Amendment to the Original Declaration is executed by the undersigned Officers of the Association, and said Officers hereby swear and attest under oath that the written consent of the required vote of the Owners was lawfully obtained, and that any notices required by the Declaration were properly given.

This ____ day of _____, 200__.

ROSEBURY COMMUNITY ASSOCIATION, INC.

BY: _____, **President**

BY: _____, **Secretary**

[CORPORATE SEAL]

Sworn to and subscribed to
Before me this ____ day of
_____, 200__, **in**
the presence of:

Witness

NOTARY PUBLIC

[NOTARY SEAL]

[Signatures Continued on the Next Page]

IN WITNESS WHEREOF, the undersigned duly authorized officer of Declarant has executed this Instrument as of the date written.

This ____ day of _____, 200__.

DECLARANT: ARBOR HILL, LLC, a Georgia Limited Liability Company

By: Land Sellutions, Inc. a Georgia Corporation, its Manager

By: _____
Richard C. Wernick, President

[CORPORATE SEAL]

Sworn to and subscribed to
Before me this ____ day of
_____, 200__, in
the presence of:

Witness

NOTARY PUBLIC

[NOTARY SEAL]