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Connie H. Cheatham

Clerk Superior Court, McDuffie County, Ga.

Bk 00412 Pg 0183-0197

**STATE OF GEORGIA**

**McDUFFIE COUNTY**

**DECLARATION OF COVENANTS, CONDITIONS  
RESTRICTIONS AND RIGHTS**

**THIS DECLARATION** made on the date hereinafter set forth by Gerald W. Hargrove, Sr., hereinafter referred to as "Declarant".

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of certain property in the County of McDuffie, State of Georgia, which is more particularly described as:

**SEE EXHIBIT "A" ATTACHED HERETO AND BY  
REFERENCE MADE A PART HEREOF.**

**NOW, THEREFORE**, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**  
**DEFINITIONS**

Section 1. "Association" shall mean and refer to THE COTTAGES OF THOMSON HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Unit which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

ALL that tract or parcel of land with improvements thereon, situate, lying and being in the City of Thomson, 134<sup>th</sup> District G.M. of McDuffie County, Georgia, containing 0.60 and being more particularly described as "Common Area" on Plat of Survey thereof prepared by John A. McGill, R.L.S. No. 1753, dated March 25, 2003, copy of which is recorded in Plat Book S at pages 369R in the office of the Clerk of Superior Court of McDuffie County, Georgia, and to which Plat and the official record thereof reference is hereby specifically made in aid of and for a more complete and detailed description of said lot as to its courses, metes and distances. Said property contains the "common areas" of The Cottages of Thomson Homeowners Association as shown by said Plat of Survey.

Section 5. "Unit" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to GERALD W. HARGROVE, SR., his heirs, successors and assigns.

**ARTICLE II**  
**PROPERTY RIGHTS**

Section 1. "Owners" Easements of Enjoyment. Every owner shall have the right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of the Common Area by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Spaces. Two on-site parking spaces shall be designated for the exclusive use of the owner or owners of a single lot.

Easements for access and for ingress and egress are reserved for all Unit owners and persons acting for them as shown on the record plat of the development.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any unit which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each unit owned. When more than one person holds an interest in any unit, all such persons shall be members. The vote for such unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any unit.

Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on June 1, 2007.

### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each unit owned within the Properties, hereby covenants, and each Owner of any unit 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: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until June 1 of the year immediately following the conveyance of the first unit to an Owner, the maximum annual assessment shall be Four Hundred Dollars (\$400.00) per unit.

(a) From and after June 1 of the year immediately following the conveyance of the first unit to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after June 1 of the year immediately following the conveyance of the first unit to an Owner, the maximum annual assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment of an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any section authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all units and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all units on the first day of June of each year. The first annual assessment for the period June 1, 2005 to June 1, 2006, for each owner shall be the entire annual assessment for said year. The Board of Directors shall fix the amount of the annual

assessment against each unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified unit have been paid. A properly executed certificate of the Association as to the status of assessments on a unit is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her unit.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any unit shall not affect the assessment lien. However, the sale or transfer of any unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such unit from liability for any assessments thereafter becoming due or from the lien thereof.

## **ARTICLE V**

### **RESIDENTIAL PURPOSES**

Section 1. Residential Purposes. All units in the development shall be, and the same hereby are, restricted exclusively to residential use. No structures of a temporary character, trailer, motor home, basement, tent, shack, carport, garage, barn or other outbuilding shall be used as a residence

on any portion of the property at any time whether temporarily or permanently, nor shall such structures be maintained in The Cottages. No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling, not to exceed two stories in height.

## ARTICLE VI

### FREEHOLD ESTATE

Section 1. Freehold Estate. Each unit and the townhouse thereon shall be conveyed as a separately designated and legally described freehold estate in fee simple, subject to the terms, conditions and provisions hereof.

## ARTICLE VII

### ARCHITECTURAL CONTROL

Section 1. Architectural control. No building shall be erected, placed or altered on any unit until the construction plans and specifications and a plan showing the location of the structure have been approved by the architectural control committee as to setbacks and restrictions of City of Thomson, Georgia, quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grad elevation. No fence or wall shall be erected, placed or altered on any easements whether on the front, back or side of any building on any lot nearer to any street than the minimum building setback unless similarly approved. No fence shall be erected that exceeds five (5) feet in height. All fences to be wooden type only.

The architectural control committee is composed of Gerald W. Hargrove, Sr., Dorothy M. Knox and Robert E. Knox, Jr. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its

designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

At such time as Declarant no longer owns any unit in The Cottages, the above three original members of the architectural control committee shall resign and the architectural control committee shall be elected by votes of the record owners of a majority of the units of The Cottages. At any time thereafter, the then record owners of a majority of the units shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

Requests to the architectural control committee shall be in writing with complete construction plans and specifications. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within sixty (60) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. If the request is not complete, submittant will be notified in writing and until request is completed, the sixty (60) days time for response on this request will not be deemed to have begun.

## **ARTICLE VIII**

### **GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years (20) period by an instrument signed by not less than ninety (90%) percent of the unit Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the unit Owners. Any amendment must be recorded.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

Section 1. Dwelling Cost, Quality and Size. Unit dwellings or buildings are currently built or to be completed by Developer. No replacement dwelling shall be permitted on any unit at a cost at least equal to or greater than the fair market value of the former dwelling, excluding lot cost, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which is currently built and completed.

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, nor shall the property be used in any way for any purpose which may endanger the health or unreasonably disturb the owner of any town home or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of the property.

Section 3. Signs. No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than five (5) square feet advertising the property for sale.

Section 4. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health or unreasonably disturb the owner of any townhouse or any resident thereof, and do not weigh more than 50 pounds at maturity. All pet owners shall be responsible for cleanup behind and maintenance of their pet and shall adhere to all local laws regarding said pets.

Section 5. Clotheslines, Garbage Cans, Etc. All equipment, garbage cans, service yards, woodpiles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses, the parking areas and streets. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon, and shall not be kept except in sanitary containers.

Section 6. Water Supply. No individual water supply system shall be permitted on any unit.

Section 7. Exterior Antennas. Without prior written approval and authorization of the Association, if any, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property nor upon any structure situated upon the property.

Section 8. Prohibited Activities. The following activities are strictly prohibited and not allowed on any unit in the subdivision or on any part of the property in the common area:

- a. construction or location of any additional outbuilding, not present at this date , or built by Developer in the future
- b. yard sales
- c. parking or location of any boat, camper, recreational vehicle, 4-wheeler or like vehicle
- d. parking or location of any abandoned or non-operational vehicle
- e. front interior window decorations or coverings, except for window blinds of a type or

quality in each unit this date, or selected originally by Declarant, or except for decorative drapes

f. more than 4 occupants per unit; except that in the event of a Lease of Unit more than 3 occupants per unit

g. outside clotheslines

h. any illegal activity

Section 9. Leasing of Units. Entire units may be rented provided the occupancy is not less than twelve (12) months and such occupancy is only by the lessee and his or her immediate family or as may be approved or otherwise provided for by the Association, if any. No room may be rented and no transient tenants accommodated. This Declaration shall automatically become a part of any such Lease as set forth herein, except that in the event of such Lease only 3 occupants shall be allowed per unit.

Section 10. Covenant with Respect to Maintenance of Unit and Improvements. Each Owner shall keep his or her unit and the structure thereon in good order and repair including, but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of the structure all in a manner and with such frequency as is consistent with good property management subject to the condition that no owner shall cut or remove any tree having a diameter of nine (9") inches measured one (1) foot from the ground, without the express consent of the architectural control committee established herein

No owner of any unit shall modify the structure on his or her unit by adding a room or rooms, changing the rooflines, adding decks, materially changing or altering the color or making other alterations in the exterior appearance of the structure without the express written approval of the architectural control committee. Each owner, in acquiring title to his or her respective unit, acknowledges that the decor, color scheme and design have been selected in such a manner to be consistent and harmonious with other units within the subdivision and agrees to maintain his or her

respective unit and structure in a manner as to maintain and perpetuate the visual harmony within the subdivision.

Section 11. **Damage or Destruction.** In the event of damage or destruction in any structure within the subdivision, the respective Owner thereof agrees as follows:

(a) In the event of total destruction, the Owner shall promptly clear the unit of debris and leave the same in a neat and orderly condition until such time as he or she might elect to rebuild or reconstruct the structure. Any such rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the original structure so destroyed, subject to any changes or modifications as approved by the architectural control committee.

(b) In the case of partial damage or destruction, the owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original structure and in conformity with its original exterior painting and decor. Any change or alteration must be approved by the architectural control committee. In no event shall any damaged structure be left unrepaired and unrestored for in excess of sixty (60) days.

Section 12. **Lot Lines.** No lot boundary may be altered, nor any lot subdivided, except by Developer and as approved by the City of Thomson, and a lot may not be divided and merged into adjoining lots to reduce the number of originally plotted lots in subdivision, except by Developer and as approved by the City of Thomson.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set

his hand and seal this 15th day of June, 2005.

DECLARANT:

Gerald W. Hargrove Sr.  
GERALD W. HARGROVE, SR.

Signed, sealed and delivered in  
the presence of:

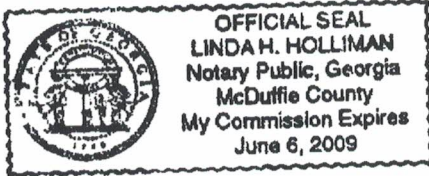
Bill B. Galt

Witness

Linda H. Holliman

Notary Public

My Commission Expires: \_\_\_\_\_



## EXHIBIT "A"

**ALL** that tract or parcel of land with improvements thereon, situate, lying and being in the City of Thomson, 134<sup>th</sup> District G.M. of McDuffie County, Georgia, containing Lots 1 through 16 of "The Cottages", and is more particularly described by Plat of Survey thereof prepared by John A. McGill, R.L.S. No. 1753, dated March 25, 2003, copy of which is recorded in Plat Book S at page 369R in the office of the Clerk of Superior Court of McDuffie County, Georgia, and to which Plat and the official record thereof reference is hereby specifically made in aid of and for a more complete and detailed description of said lot as to its courses, metes and distances. Said property is known as 311 Cleveland Street, Thomson, Georgia 30824.