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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WATER TOWER VILLAGE SUBDIVISION**

**STATE OF GEORGIA  
COUNTY OF HABERSHAM**

**THIS DECLARATION**, made this 8<sup>th</sup> day of July, 2008, by Water Tower Village, LLC (hereinafter referred to as "Declarant").

**WITNESSETH**

**WHEREAS**, Declarant, being a subdivision of all those certain lots, tracts of land situated, lying and being in the city of Clarkesville, Georgia in Land Lot 20 of the 10<sup>th</sup> Land District, Habersham County, Georgia, containing 3.98 acres, more or less, and being more particularly described as 4.37 acres, more or less, as shown on a plat of survey prepared by Hubert Lovell, R.S., under date of August 19, 1976, a copy of said plat being of record in the office of the clerk of Superior Court of Habersham County, Georgia, in Plat Book 13, Page 157, to which said plat and the record thereof reference is hereby made for a more particular description.

**Less And Except**: All That Tract or parcel of land lying and being in Land Lot 20 of the 10<sup>th</sup> Land District in the City of Clarkesville, Habersham County, Georgia, containing 0.39 acre, more or less, as shown on a plat of survey prepared for C M M Development by Richard H. Holcomb, R.S., under date of May 5, 2004, a copy of said plat being of record in the office of the Clerk of Superior Court of Habersham County, Georgia, in Plat Book 55, Page 227, to which plat and the record thereof reference is hereby made for a more particular description.

**WHEREAS**, Declarant desires to provide for the preservation and enhancement of the property values in Water Tower Village Subdivision, and for the maintenance of property improvements thereon, and to this end desires to subject the property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property; and

**WHEREAS**, Declarant has deemed it desirable, for the efficient preservation of the values in Water Tower Village Subdivision, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the common area and improvements thereon administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant will cause to be incorporated under the laws of the state of Georgia the Water Tower Village Home Owners Association, LLC, ("Water Tower Village HOA"), a non-profit corporation, for the purpose of exercising the aforesaid functions.

NOW THEREFORE, Declarant declares that the real property described above is and shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I  
DEFINITIONS

Section 1: "Additional Property" means the additional property which may be added to the Property and made subject to this Declaration pursuant to Article IX hereof. A description of the Additional Property is set forth on Exhibit "A" attached hereto and made a part hereof.

Section 2: "Architectural Control Committee" shall mean and refer to Water Tower Village Subdivision or such other entity or individual as Declarant may appoint, until all Lots in Water Tower Village Subdivision have been fully developed and permanent improvements constructed thereon and sold to permanent residents. At such time as all Lots are fully developed and permanent improvements constructed thereon and sold to permanent residents, the then current Declarant shall relinquish its right to appoint the Architectural Control Committee and said Committee shall be appointed by the Board.

Section 3: "Association" shall mean and refer to Water Tower Village Home Owners Association, LLC, its successors and assigns.

Section 4: "Board" shall mean and refer to the Board of Directors of the Association.

Section 5: "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 6: "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration and the By-Laws and Articles of Incorporation of the Association.

Section 7: "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 8: "Declarant" shall mean and refer to Water Tower Village, LLC or any successor in title or any successor in interest to Water Tower Village, LLC to all or any portion of the Property then subject to this Declaration, provided in the instrument of conveyance to any such successor in title or interest it is stated that the rights of Declarant are conveyed therewith or if any subsequent recorded instrument the then current Declarant conveys Declarant's rights to such successor-in-title.

Section 9: "Lot" shall mean and refer to residential lots, as well as any future lots subject to the within covenants, conditions, restrictions and easements by the Declarant in Water Tower Village Subdivision or any expansion thereof by Declarant.

Section 10: "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 11: "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 12: "Property" shall mean and refer to that certain real property described on the plat or plats hereinabove referenced.

Section 13: "Structure" shall mean and refer to:

- (a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary improvement to such Lot.
- (b) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and
- (c) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 13 applies to such change.

## ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

### Section 1. Purpose, Powers and Duties of the Architectural Control Committee.

- (a) The purpose of the Architectural Control Committee is to assure that the installation, construction, or alteration of any Structure on any Lot is in accordance with the standards determined by the Architectural Control Committee. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of such structure on any Lot.

- (b) To preserve the architectural appearance of the neighborhood, no construction or placement of improvements of any nature whatsoever shall be commenced or maintained by any owner, his family, tenants, visitors, guests, servants, and agents with respect to the exterior of any house or with respect to any other portion of any Lot or other parcel of land, including without limitation, the construction or installation of sidewalks, driveways, decks, patios, swimming pools, tennis courts, greenhouses, playhouses, garages, guest or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specification showing the nature, color, type, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony or external design, location and appearance in relation to surrounding structures and topography by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the neighborhood. If same are not approved or disapproved within thirty (30) days from date submitted, then same shall be approved by default. Dwelling units erected on any lot shall each have no less than 1,500 square feet of heated floor space on the main floor. Two story dwelling units shall have no less than 1,100 square feet of heated floor space on the main floor and no less than 500 square feet of heated floor space on the second level.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

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

Class A: Every person who is an Owner, with the exception of the Declarant, shall be a Class A member and shall be entitled to one vote for each Lot owned. When more than one person is a Class A member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. In the event of disagreement among such persons and in an attempt by two or more of them to cast the vote of such Lot, such persons shall not be recognized and the vote of such Lot shall not be counted. The membership of Class A members shall automatically terminate upon the member's sale of his or her Lot. However, no termination of Class A membership shall affect such member's obligation to pay assessments, as hereinafter provided for, due and payable for any period prior to the date of termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

Class B: The Class B member(s) shall be the Declarant and Declarant shall be entitled to three (3) votes for each Lot owned by Declarant or by a builder who holds a Lot for resale. A builder who holds Lots for resale shall not have voting rights as Declarant shall control such votes. At such time as any portion of the Additional Property is added to this Declaration, the Class B member votes shall increase according to the number of Lots included therein. 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) The date on which one hundred percent (100%) of the Lots located on the Property and any Property which has been added to this Declaration by Declarant have been sold to individuals who reside in dwellings located on said Lots. In the event the Class B membership has ceased pursuant to this provision, and the Declarant adds Additional Property which causes the number of Lots sold to individuals who reside in dwellings located on said Lots to be less than one hundred percent (100%) of the Lots located on the Property, and any Additional Property which has been added to the Declaration, then the Class B membership shall be revived, and the Class B member shall again have three (3) votes for each Lot owned.
- (b) 7 years from the date of this Declaration.
- (c) The surrender by Declarant of the authority to appoint and remove members of the Board of the Association by written instrument executed and recorded by Declarant; provided however, that so long as any mortgagee of Declarant holds a security interest in any portion of the Property as security for a development loan to Declarant, the Class B member membership shall not terminate without the prior written consent of such mortgagee. If at the time of termination of the Class B membership Declarant still owns any Lots, then as to each Lot owned by Declarant, Declarant shall be deemed to be a Class A member.

**ARTICLE IV  
PROPERTY RIGHTS**

**Section 1. Member's Easement of Enjoyment.** Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common area (including, without limitation, the right of pedestrian, but not vehicular, access, ingress and egress to and from his Lot over those portions of the Common Area from time to time designated for such purposes), which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) the right of the Association to charge a reasonable admission and other fees for the use of any recreational facility which may in the future be situated upon the Common Area.
- (b) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner or his designee for any period during which any assessment against his Lot remains unpaid, and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (c) The right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of two-thirds of the Class A members and the Class B member, if any, to give as security a mortgage conveying all or any portion of the Common area.
- (d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility 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 signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded.

- (e) The easements reserved in Article VII of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his right or use and enjoyment in and to the Common Area and the improvements thereon to the members of his family, his tenants, guests and invitees, subject to such regulations and fees as may be established from time to time by the Association.

Section 3. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

ARTICLE V  
COVENANT FOR MAINTENANCE AND  
CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed therefore, 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, (2) special assessments for capital improvements and (3) initiation fees, such assessments to be established and collected as hereinafter provided. The annual and special assessments and initiation fees, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when 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 for promoting the health, safety, pleasure and welfare of the Owners of the Lots and the costs and expenses incident to the operation of the Association, including without limitation the maintenance and repair of the Common Area and improvements thereon, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Common Area, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the First Lot to an Owner, the maximum annual assessment shall be Five Hundred and Fifty Dollars (\$550.00) per lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) 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 in an amount not in excess of the maximum.

Section 4. Special Assessment 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 action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days not more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) 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 sixty (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 Lots and may be collected on a monthly or annual basis.

Section 7. Date of Commencement of Annual Assessments. Due Date. The annual assessments provided for herein shall commence as to each Lot on the date that such Lot is conveyed to an Owner. Anything contained herein to the contrary notwithstanding, Declarant and any builder shall not be responsible for assessments on Lots not containing an occupied residence. Declarant shall, however, fund any deficit which may exist between assessments and the annual budget or pay the annual assessment and any special assessments due for as long as there is a Class B member of the Association. Declarant's obligation hereunder shall constitute a lien against all real property owned by Declarant and subject to this Declaration. The due dates shall be established by the Declarant until there is no longer a Class B member and then by the Board. The Association shall, upon demand, and for a reasonable charge, not to exceed Ten Dollars (\$10.00), furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance. If the Association fails to respond to any such request within ten (10) days after receipt of such request, any lien then outstanding shall be deemed to have been extinguished. All such requests shall be sent to the Association in the same manner as provided for notices in Section 6 hereof.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. In such case, the Association may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest assessment. Each such owner, by his acceptance of a deed to a Lot, hereby expressly vests

in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to purchase any lot at any sale and convey the same for the purpose of protecting its lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of action on the lien.

**Section 9. Subordination of Lien to First Mortgages.** The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed, or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due of from the lien thereof.

**Section 10. Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; and (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens except as otherwise set forth herein.

**Section 11. Effect of Delinquency on Class A Members.** Notwithstanding all of the foregoing rights of the Association, the Association shall have the further right to prohibit a delinquent Class A member, such delinquency being as herein defined, from using in any manner the Common Area.

**Section 12. Initiation Fee.** There shall be owed to the Association a nonrefundable initiation fee for each closing of a lot. The initiation fee shall be One Hundred Twenty-Five Dollars (\$125.00) per Lot for all Lots. Each Owner understands that the initiation fee as set forth herein shall be paid to the Association as the initial closing of the Lot and at each subsequent closing of that Lot so that the Association receives an initiation fee each time a lot is sold.

#### ARTICLE VI MAINTENANCE

**Section 1. Association's Responsibility.** Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area. The Association's responsibility with respect to the Common Area shall be deemed to include, but shall not be limited to the maintenance, repair and replacement of (i) all roads, driveways, (not dedicated to the city or municipal authority) walks, parking areas, if any, and buildings and other improvements, if any, situated within the Common Area, (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area, and (iii) all lawns, parks, trees, shrubs, hedges,



grass, green space, conservation easement areas, buffers, other landscaping and all detention ponds situated within or upon the Common Area.

**Section 2. Owner's Responsibility.** Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community Wide Standard and this Declaration. The Community Wide Standard as used in this subparagraph shall mean and refer to the standard of conduct, maintenance or other activity generally prevailing in Water Tower Village Subdivision. Such standard may be more specifically determined by the Board of Directors of the Association, but must be consistent with the Community-Wide Standard originally established by the Declarant. In the event that the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot. The remedies provided in this Section shall be in addition to, and not in lieu of, other remedies provided in this Declaration for a violation of the Declaration.

#### ARTICLE VII EASEMENTS

**Section 1. Utility Easements.** There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and systems. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Declarant or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

**Section 2. Easement for Declarant.** Declarant hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Declarant and the Common Area for so long as Declarant owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary to properly install attachments in connection with the

transmission of electricity, gas, water, telephone, community antennae, television cables and other utilities;

- (b) For the construction of improvements on the Lots;
  
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
  
- (d) For the use of the Common Area and any sales office, model units and parking spaces in connection with its efforts to market Lots.
  
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Declarant may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 3. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association to enter upon the Common Area and the Lots to perform their respective duties. Each Owner purchases a lot subject to the Easements referenced herein and subject to all easements referenced on any recorded plat of the Property.

#### ARTICLE VIII GENERAL COVENANTS AND RESTRICTIONS

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use. The use of a portion of a dwelling as an office by an Owner shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. The use of a dwelling or a portion thereof for business meetings, entertainment, or the enjoyment of business of the Owner's employees, trustees, agents, clients, or customers shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. Nothing herein shall be construed to prohibit or prevent Declarant or any builder of residences on the Property from using any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development and sale of Lots and/or new homes on lots.

Section 2. Common Area. The Common Area shall be used by the Owners and their agents, servants, tenants, family members, invitees and licensees for such other purposes as may be authorized by the Association.

Section 3. Debris. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property.

Section 4. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot except for the initial construction of residences and development of the Property.

Section 5. Signs

- (a) No signs whatsoever shall be installed, altered, or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:
- (i) such signs as may be required by legal proceedings;
  - (ii) not more than one "For Sale" or "For Rent" sign, provided however, that in no event shall any such sign be larger than six (6) square feet in area, and
  - (iii) directional signs for vehicular or pedestrian safety;
  - (iv) entry signs used to identify subdivision, marketing signs used to advertise subdivision by Declarant and in conjunction therewith brochure holders.
- (b) Following the consummation of the sale of any Lot, the sign located thereon shall be removed immediately.

Section 6. Fences. No chain link or cyclone fences may be placed on the Property. No fences shall be erected further toward the street on which a residence fronts than the rear most portion of said residence. All fences must be approved by the Architectural Control Committee as set forth in Article II herein.

Section 7. Recreational Vehicles, Trailers, etc. No recreational vehicles, trailers, campers, trucks (except pickups and vans), travel buses or any such equipment shall be parked on any Lot. No inoperative vehicle shall be parked on any Lot for any period of time in excess of fourteen (14) days. No owners or occupants of any Lot or parcel of land shall repair or restore any vehicle of any kind upon any Lot or upon any parcel of land, except for emergency repairs, and then only to the extent necessary to enable the movement thereon to a proper repair facility.

Section 8. Recreational Equipment. No recreational and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot without prior written approval of the Architectural Control Committee.

Section 9. Accessory Structures. A detached accessory structure may be placed on a Lot to be used for a playhouse or tool shed. Such accessory structures shall not exceed ten (10) feet in height, shall conform in exterior design and quality to the dwelling on the same Lot, and shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot. Such accessory structures shall also be located with such side and rear setback lines as may be required by the Architectural Control Committee. Any accessory structure must be approved in advance, in writing by the Architectural Control Committee.

**Section 10. Improvement of Lots.** All construction of dwellings, accessory structures and all other improvements in Water Tower Village Subdivision shall be undertaken and completed in accordance with the following conditions:

- (a) All construction shall be carried out in compliance with the laws, code, rules, regulations and orders of all applicable governmental agencies and authorities;
- (b) Concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot;
- (c) Only one mailbox shall be located on any Lot, which mailbox shall be selected to be identical in quality and design of surrounding dwellings and mailboxes and shall be placed and maintained to complement the dwelling to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States Postal Service, its successors and assigns. Any deviation from the standard mailbox and supporting structure must be approved by the Architectural Control Committee;
- (d) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory structure on such Lot nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used;
- (e) No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee;
- (f) Adequate off-street parking shall be provided for each Lot. Except for house guests staying two (2) weeks or less, no more than two (2) cars shall be parked in the driveway of a Lot;
- (g) All garages must have doors, and each garage door must be coordinated in design and color with the dwelling to which it is appurtenant. Both garages must be occupied by Owner's motor vehicles before a third vehicle is allowed to be parked in the driveway;
- (h) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction;
- (i) Any change in paint color to any structure must be approved by the Architectural Control Committee.

Section 11. Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No animals shall be boarded outside of the dwelling structure.

Section 12. Accessory Structures Installed by Declarant. Entry signs, fences, walls and landscaping installed by Declarant on the Property shall be and are hereby dedicated to the use and benefit of all Owners, and shall not be removed or altered without a two thirds (2/3) vote of the Association Class A members.

Section 13. Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance throughout the neighborhood, no awnings, shades or window boxes shall be attached to, or hung or used on the exterior of any window or door of any house; and no railings, fences, walls, antennae or satellite dishes shall be installed or constructed upon any Lot or parcel of land without the prior written consent of the Architectural Control Committee. Further, no foil or other reflective material shall be used on any windows or sunscreens, blinds, shades or for any other purpose, nor shall any window mounted heating, air-conditioning or fan units be permitted. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained upon any Lot or parcel of land, nor shall any clothing, rugs or other items be hung on any railing, fence, hedge or wall.

#### ARTICLE IX ANNEXATION

Section 1. Submission of Additional Property. Declarant shall have the option and right from time to time, without the necessity of consent by the Association, the Board or the Owners, but subject to Section 2 of this Article, to submit all or portions of the Additional Property to this Declaration and thereby to cause the Additional Property, or such portions thereof, to become part of the Property. This option may be exercised by the Declarant in accordance with the conditions and limitations set out in Section 2 of this Article, which are the only conditions and limitations on such right.

Section 2. Conditions of Annexation. Any Annexation as permitted by Section 1 of this Article shall be in accordance with the following terms and conditions:

- (a) The option to submit portions of the Annexation Property may be exercised at any time and from time to time until seven (7) years from the date of this Declaration is recorded; provided, however, that the Owners of Lots to which two-thirds (2/3) of the Class A votes in the Association appertain, exclusive of any vote or votes appurtenant to Lots then owned by Declarant, may consent to the extension of such option by vote taken not more than one (1) year prior to the date upon which such option will expire.
- (b) The legal description of the additional Property is set forth in Exhibit "B". Portions of the Additional Property may be added at difference times, and there are no limitations fixing the boundaries of those portions or regulating the order in which any such portions may become part of the Property.

(c) All lots created on portions of the Additional Property which are added to the Property will be restricted exclusively to residential use, in accordance with Article VI of this Declaration.

(d) The option reserved by Section 1 of this Article may be exercised by the Declarant or Successor Declarant alone (without the consent of the Association or any Owner) by the execution by the Declarant of an amendment to this Declaration which shall be filed for record in the Office of the Clerk of the Superior Court of Habersham County, Georgia, together with a plat of that portion of the Additional Property which is to become part of the Property by reason of such amendment. Such plat shall indicate the Property, the boundaries of all Lots to be located therein, and an identifying number for each such Lot. Any such amendment shall expressly submit that portion of the Additional Property which is to become part of the Property from time to time, and upon the exercise, if any, of such option, the provisions of this Declaration shall be understood and construed as embracing all of the Property, including the initial phase and such portions of the Additional Property as have become part of the Property by annexation in this manner.

(e) In addition to the procedure outlined in sub-paragraph (d) above, the option reserved by Section 1 of this Article may be exercised with respect to any portions of the Additional Property, notwithstanding that such Additional Property may be owned by persons, including any individual, individuals, corporations, partnerships or any other type of entity, other than Declarant. Declarant shall exercise this option by an amendment to this Declaration which shall be filed for record in the Office of the Clerk of the Superior Court of Habersham County, Georgia, together with a plat of that portion of the Additional Property which is to become part of the Property by reason of such amendment. Such plat shall indicate the boundaries of that portion of the Additional Property which is to become part of the Property, the boundaries of all Lots to be located thereon, and an identifying number for each such Lot. Any such amendment shall contain a statement consenting to the annexation of any such Additional Property, together with a reference to a Declaration, (citing the specific Deed Book and Page in which such Declaration is recorded) executed by the Owner or Owners thereof submitting such Additional Property to this Declaration. Upon the exercise of the foregoing procedure, the provisions of this Declaration shall be understood and construed as embracing all of the Property, including the initial phase and such portions of the Additional Property as have become part of the Property by annexation in this manner.

(f) From and after the date of annexation of any portion of the Additional Property, each Lot so added to the Property and Owners thereof, shall have the same vote, shall share the same obligations and responsibilities, and shall have the same rights and privileges accorded every Lot previously comprising part of the Property. Upon annexation of each portion of the Property, as herein provided, the Association shall be deemed to have assumed automatically, and without the necessity of consent by the Association, the Board or any individual Owners, the covenants to maintain the Common Property and the other obligations imposed by this Declaration, as amended from time to time, with respect to that portion of this Additional Property which is then the subject of annexation.

Section 3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex Additional Property pursuant to this Article for the purpose of removing any portion of Water Tower Village Subdivision then owned by Declarant or the Association from the coverage from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for Water Tower Village Subdivision, provided such a withdrawal is not unequivocally contrary to the overall, uniform scheme of development for Water Tower Village Subdivision.

ARTICLE X  
GENERAL PROVISIONS

Section 1. Enforcement.

- (a) The Association, the Architectural Control Committee, the Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges nor or hereafter imposed by the provisions of the 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 hereafter.
- (b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any written restriction contained in this Declaration within twenty (20) days after the mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions.

Section 2. Fines. The Board of Directors may impose fines or other sanctions, for violations of this Declaration, said fines to be collected as provided herein for the collection of assessments.

Section 3. Right To Record. The Board shall have the right to record in the appropriate land records a notice of violation of this Declaration, By-laws or any rules, regulations, use restrictions, or design guidelines promulgated by the Association and to assess the cost of recording and removing such notice against the foregoing.

Section 4. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 5. Headings. The headings of articles and sections in this Declaration are for convenience and reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 6. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least two-thirds (2/3) of the Owners at the time of expiration of the initial period, or of any extension period, shall sign an instrument in which said covenants and restrictions are modified in whole or in part, which instrument is filed of record in the appropriate county.

Section 7. Rights and Obligations. Each grantee of the Declarant and Owners, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits, privileges of every character hereby imposed shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 8. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Association or Board shall be in writing and shall be addressed to the President of the Association at his/her address, which presently is:

Harry W. Farmer  
188 Muir Drive  
Santee Nacoochee, GA 30571

Or at such different address or addresses as reflect their proper address. Any Owner may designate a different address for notices to him/her by giving written notice to the Association. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail or when delivered in person.

Section 9. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant:

- (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith;
- (b) if such amendment is necessary to enable any reputable life insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration;
- (c) if such amendment is necessary to enable the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration, or



- (d) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, the Federal Housing Administration or a reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least sixty-seven (67%) percent of the Owners of Lots; provided however, such amendment by the Owners shall not be effective unless also signed by Declarant, if Declarant is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section.

**ARTICLE XI  
CREATION AND MAINTENANCE OF COMMUNITY STANDARDS**

**Section 1. Occupancy of Units.**

- (a) The units within Water Tower Village are intended for the housing of persons 55 years of age or older. The provisions of this Article are intended to be consistent with, and are set forth in order to comply with the Fair Housing Amendments Act, U.S.C. §3601 *et seq.* (1988), as amended (the "Act") and the exemption from such Act provided by U.S.C. § 3607 (b)(2)(c) regarding the discrimination based on familial status. Declarant or the Association, acting through its Board, shall have the power to amend this Article, without the consent of the Members or any Person except Declarant, for the purpose of making this Article consistent with the Act, as it may be amended, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Article.
- (b) Notwithstanding this Section 1 (a), DECLARANT HEREBY RESERVES THE RIGHT TO ALTER ITS PLANS FOR MARKETING AND SALE OF THE PROPERTY WITHIN WATER TOWER VILLAGE IN ORDER TO INCLUDE PERSONS UNDER AGE 55 AND FAMILIES WITH CHILDREN AND IN SUCH EVENT, TO UNILATERALLY AMEND THIS DECLARATION AT ANY TIME PRIOR TO EXPIRATION OF THE CLASS "B" CONTROL PERIOD FOR THE PURPOSE OF MODIFYING OR ELIMINATING THIS RESTRICTION ON OCCUPANCY OF UNITS. EACH OWNER ACKNOWLEDGES THAT DECLARANT SHALL HAVE SUCH RIGHT AND THAT IN THE EVENT OF SUCH AN AMENDMENT, SOME OR ALL UNITS MAY BE OCCUPIED BY PERSONS UNDER THE AGE OF 55, INCLUDING CHILDREN.
- (c) **Restrictions on Occupancy:** Each occupied Unit shall at all times have as a permanent occupant at least one person who is 55 years of age or older (the "Qualifying Occupant"); provided, in the event of the death of a person who was the sole Qualifying Occupant of a unit, the spouse

of such Qualifying Occupant may continue to occupy the Unit as long as the provisions of the Act and the regulations adopted thereunder are not violated by such occupancy. For purposes of this Section, an occupant shall not be considered a "permanent occupant" unless such occupant considered the Unit to be his or her legal residence and actually resides in the Unit for at least six months during every calendar year.

- (d) No unit shall be occupied by any person under the age of 18. For purposes of this Section, a Unit shall be deemed to be "occupied" by any person who stays overnight in the unit for more than 21 days in any 60-day period or for more than 30 days in any 12 month period.
- (e) Nothing in this Article is intended to restrict the ownership of or transfer of title to any Unit; provided, no Owner may occupy the Unit unless the requirements of this Article are met nor shall any owner permit occupancy of the Unit in violation of this Article. Unit Owners shall be responsible for including the statement that the Units within Water Tower Village are intended for the housing of persons 55 years of age or older, as set forth in this section and its subsections in any lease or other occupancy agreement or contract of sale relating to such Owner's Unit, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, purchaser, or other potential occupant of the Unit. Every lease of a Unit shall provide that failure to comply with the requirements of this Article shall constitute a default under the lease.
- (f) Any Owner may request in writing that the Board make an exception to the requirements of this Section with respect to his or her Unit. The Board may, but shall not be obligated to grant exceptions in its sole discretion, provided that the requirements for exemption from the Act would still be met. No exception to these residency restrictions may be granted or continued if such exception results in less than 80% of the Units being occupied by at least one qualifying Occupant.
- (g) Notification of Changes in Occupancy: In the event of any change in occupancy of any Unit, as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Unit shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Unit in writing and provide to the Board the names and ages of all current occupants of the Unit and such other information as the Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Board and provide all required information within 10 days after a change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Article and its subsections, the Board shall have available for enforcement all remedies available to the Association under this Declaration and Georgia law.
- (h) Appointment of Attorney-in-Fact: The Association shall be responsible for maintaining age records on all occupants of Units. The Board shall adopt policies, procedures, and rules to monitor and maintain compliance with this Article, including policies regarding visitors, updating age records, granting exemptions pursuant to relevant sections

This Declaration made this 16 day of June, 2011, by the undersigned property owners of the property located in Land Lot 20 of the 10<sup>th</sup> Land District, in the City of Clarkesville, Habersham County, Georgia, being designated Water Tower Village Subdivision, being shown on plats of survey recorded in:

Plat Book 13, page 157 (Less and Except Plat book 55, page 227); and  
Plat Book 60, page 136 (which is a portion of the property described in Plat Book 13, page 157, and specifically describing Lots 1, 2, 3, 4, 5 and 6 of Phase II of the Water Tower Village Subdivision);

**WHEREAS**, the Declaration of Covenants, Conditions and Restrictions (Covenants) for the Water Tower Village Subdivision, dated July 8, 2008, were recorded in Deed Book 855, pages 309-328, of the Habersham County, Georgia Deed Records;

**WHEREAS**, the undersigned Owners affirm and represent that they own the lots and land of this development (as described above) and they are empowered to amend the Covenants as follows:

■ Page One (1), (Deed Book 855, page 309):

The property description is deleted in its entirety and substituted with the description contained in this First Amendment.

■ Page Four (4), (Deed Book 855, page 312):

Article III, Section 2 (Two), Voting Rights is deleted in its entirety and substituted with the following:

The association shall allow voting privileges for one vote for each lot owned. When more than one person holds any interest in any lot, the vote of such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with regard to any lot.

The members of the association are empowered to create and maintain a Board of Directors to govern its affairs, the number, term and composition of which shall be determined from time to time by the majority of the members.

■ Page Eight (8), (Deed Book 855, page 316):

Section 11 (Eleven) is deleted.

■ Page Sixteen (16) and Page Seventeen (17), (Deed Book 855, Pages 324-325)

Article X, Section 9 (Nine), Amendment is deleted in its entirety and substituted with the following:

This Declaration may be amended at any time by an agreement signed by at least sixty-seven percent (67%) of the Owners of the Lots and land described herein. Any such amendment shall not become effective until the written instrument memorializing the amendment has been filed of record in the deed records of the Superior Court of Habersham County.

■ Page Seventeen (17), Eighteen (18), and Nineteen (19), (Deed Book 855, pages 325-327):

Article XI, Creation and Maintenance of Community Standards, Section 1 (One), Occupancy of Units, subsection (a) through (j) are deleted in its entirety and no substitution is being made herein.

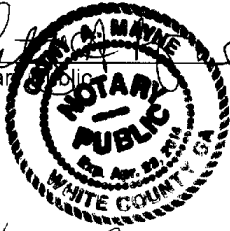
All other provisions of the Declaration of Covenants, Conditions and Restrictions (Covenants) for the Water Tower Village Subdivision, dated July 8, 2008, recorded in Deed Book 855, pages 309-328, of the Habersham County, Georgia Deed Records, shall remain in full force and effect.

**IN WITNESS WHEREOF**, Owners have caused this Declaration to be executed on the day and year first above written.

**MOUNTAIN VALLEY COMMUNITY BANK**

Danna M. Bosma  
Witness

Donald E. All President  
BY:

Cathy A. Payne  
Notary Public  


Royal M. Parsley Esq  
ATTEST:

**HOMETOWN COMMUNITY BANK**

Kella Murphy  
Witness

[Signature] CIO  
BY:

Constance M. Stevens  
Notary Public

[Signature]  
ATTEST:

