

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

AUTUMN OAKS

CATOOSA COUNTY, GEORGIA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is hereby made, published and declared this 13th May 2004, by COOTS AND GORDY CONSTRUCTION, LLC, a Georgia limited liability company (the "Developer" or the "Declarant").

WHEREAS, it is for the interest, benefit and advantage of Developer and each and every person or entity that shall hereafter acquire any Lot or any portion of any Lot in the subdivision development known as Autumn Oaks located in Catoosa County, Georgia (the "Subdivision") and more particularly depicted on that certain subdivision plat recorded at Plat Book _____ Page _____ Superior Court Clerk Office, Catoosa County, Georgia (the "Subdivision Plat"), or any resubdivision thereof, (all such Lots being collectively referred to as the "Lots" and individually referred to as a "Lot") that certain covenants and restrictions governing and regulating the use and occupancy of the same be established, set forth, and declared to be covenants running with the land.

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by the Developer and each and every subsequent record owner of fee title of any of the Lots or portions of the Lots in the Subdivision ("Owner"), the Developer does hereby set up, establish, promulgate and declare the following protective covenants and restrictions to apply to the Subdivision and to all of the Lots or portions thereof These covenants and restrictions shall become effective upon the recordation of this Declaration and shall run with the land and be binding on all persons claiming under or through the Developer for a period of twenty (20) years after the recordation of this instrument, at which time said covenants shall be automatically extended for successive periods of Twenty (20) years.

1. All of the Lots in the Subdivision shall be, and be known and described as residential Lots, and no structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family dwelling with attached garage, which may also be located in the basement, and which must be for a minimum of two (2) vehicles ("Dwelling Unit"). No carports are permitted. All structures shall be placed over crawl space except those having a full basement. No main living area shall be built on a concrete slab.

2. No residence shall be designed, patterned, constructed or maintained to serve or for the use of more than one (1) family, and no residence shall be used as a multiple-family dwelling at any time, nor used in whole or in part for any business service or activity, or for any commercial purpose. Nor shall any Lot be used for business purposes or for trucks or other equipment inconsistent with ordinary residential uses.

3. No building shall be located on any Lot nearer than thirty (30) feet to the front Lot lines or nearer than twenty-five (25) feet to any side street line or nearer than ten (10) feet to any interior Lot line.

Further, there are certain setback requirements provided for and shown on the Subdivision Plat, which are incorporated in and made a part of these covenants and restrictions. No structure, other than a below ground swimming pool, also known as an in ground swimming pool, appropriate pool facilities, outdoor fireplace, or a structure set forth in paragraph 4 below shall be located nearer than ten (10) feet to any rear Lot line.

4. No television or radio antenna, satellite dish, or other electronic device of a similar nature shall be placed on the roof of any building or on the front two-thirds (2/3) of any Lot, any such device to be restricted to the rear one-third (1/3) portion of the particular Lot. No such device may be more than ten (10) feet in height.

5. No more than one (1) Dwelling Unit shall be erected or maintained on any Lot. This will not prevent the use of one (1) or more Lots or parts of Lots as a single-building plot of ground, providing that the division or rearrangement of boundary lines of subdivision Lots shall not reduce the basic width and size of the said subdivision, and that the same shall conform to zoning laws and subdivision regulations in effect thereon. No Lot or any part thereof shall be used as a means of access (either public or private) to other lands or used for the installation of utilities serving other lands. However, Developer does hereby reserve the exclusive right to use a Lot or part of a Lot as a means of public and/or private access to and from other lands and/or to use a Lot or part of a Lot for the installation and maintenance of utility and/or drainage and/or sewage lines serving other lands, and Developer reserves the exclusive right to grant, transfer and convey these rights to others.

6. No noxious or offensive activity shall be carried on upon *any* Lot. Nothing shall be done on any Lot that may be or may become an annoyance or nuisance to the neighborhood. Any vehicles larger than pickups, sports utility vehicles or personal-type vans are not permitted to be parked in the Subdivision. There shall be no exterior storage of any inoperable vehicle for longer than one (1) month.

7. No part of any Lot shall be used for residential purposes until first a completed Dwelling Unit, conforming fully to the provisions of this Declaration, shall have been erected thereon, the intent of paragraph 7 being to prevent the use thereon of a garage, incomplete structure, trailer, barn, tent, outbuilding or other structure as a temporary living quarters before or pending the erection of a permanent Dwelling Unit. No structure of temporary character, including trailers and similar structures, shall be erected or permitted to remain on any Lot except during the period of construction. Notwithstanding anything herein to the contrary, the Developer reserves the continuing right to maintain the temporary field office and construction office trailer on any unsold Lot in the Subdivision as long as Developer is engaged in the development and marketing of the Subdivision and/or in the construction of residences on Lots in the Subdivision.

8. Any residence being erected on a Lot shall be completed within twelve (12) months from the date of the pouring of the footings for the residence.

9. No Dwelling Unit shall be erected or permitted to remain on any Lot unless it contains the minimum number of square feet of enclosed living area, exclusive of open porches, screened porches, garage, caves, steps, and basements (whether finished or not), set forth below:

(a) All one (1) level residences to be a minimum of one thousand five hundred fifty (1,550) square feet.

(b) All other style residences to be a minimum of one thousand eight hundred (1,800) square feet.

10. All Dwelling Units shall have conventional and acceptable frontal appearance from the main street facing said Lots.

11. It shall be permissible for Developer to rearrange boundary lines of Lots, if so desired, and to combine Lots or parts of Lots into one (1) building plot, providing same does not result in an increase in the number of Lots once the subdivision plat has been recorded.

12. No more than one (1) building shall be erected on any one Lot. The building may be brick, stone or wood. The exterior portions of the foundation walls, as well as one-third (1/3) of the side of the structure facing the main street, must be of a masonry material such as brick or stone. Landscape work must be completed within thirty (30) days of completion of the Dwelling Unit for occupancy. Each Dwelling Unit shall have an ornamental cast aluminum or iron mailbox with an operational working electric light thereon. No asbestos siding shall be used in the construction of the Dwelling Unit. Any other type of siding and or any other type of material must be submitted for approval as set forth in paragraph 15. This paragraph is a guide and does not affect the fact that all Lot plans and specifications must be submitted to the Developer for approval.

13. A concrete driveway must serve each residence constructed upon a Lot.

14. No bathhouses will be permitted to be erected or maintained without the approval of Developer of its location, style, material and site.

15. Before any construction is commenced or carried on upon any Lot, detailed and "to scale" building plans and specifications for any Dwelling Unit to be constructed on the Lot as well as a description of materials and any engineering, architectural or site development plans shall be submitted for approval to Developer, and written approval thereof by Developer must be procured. Because of the Developer's intense concern that all of the Lots developed in the Subdivision shall be of character and good taste, many factors beyond minimum square footage of floor space will be considered before plans and specifications are approved. Some of these factors will include how the architectural style fits in with the other homes constructed in the Subdivision, roof pitch, masonry and siding materials, window placement, driveway and garage door location and the like. A roof pitch must be a minimum of eight-twelfths (8/12) unless otherwise approved by the Developer. All Dwelling Units are to be "all electric," and gas water heaters and gas appliances are prohibited; in the event that non-electric units are utilized, the homeowner will be responsible for the cost and assessments of breaching the covenant (notice of which is given hereby) with North Georgia Electric Membership Corporation prohibiting such units. Notwithstanding the above, alternative sources of heat such as back up heat and gas grills are allowed; examples of allowable alternate sources of heat are gas fireplaces and decorative free-standing gas heat stoves.

Developer approval of all plans and specifications for construction, including new construction, as well as any modifications or additions to an existing structure, shall be required. Such approval shall be required until the sale by the Developer of, and the completion of

construction of a Dwelling Unit on each and every Lot in the Subdivision, at which time such approval provisions contained in this paragraph shall expire.

The Developer may promulgate design and development guidelines ("Design Guidelines"). Such Design Guidelines shall consist of a separate document and may, from time to time, be modified or changed, so long as such change or modification is in conformity with the Developer original intent to maintain the uniformity and character of the Subdivision. Notwithstanding the foregoing, the Developer, at any time, may relinquish or assign its right and any attendant obligations on it, to exercise architectural control as provided herein by executing and recording in the Superior Court Clerk's Office of Catoosa County, Georgia, a notice of such relinquishment or assignment, at which time the architectural control provisions contained in this paragraph shall expire or be exercised by the assignee, as the case may be.

The Developer's approval or disapproval as required in this Declaration shall be in writing. In the event the Developer fails to approve or disapprove within ninety (90) days after plans and specifications have been submitted with a written request for such approval, approval will not be required and the related covenants shall be deemed to have been fully complied with.

In no event may the Developer be held liable in any way to any Owner or other interested party by virtue of the Developer's approval, disapproval, or inaction regarding any architectural control decision.

16. No sheep, swine, goats, horses, cattle, burros, fowls or other like animal shall be permitted to be kept or to remain on any of the Lots or to roam at large on any of the streets bordering the same. There shall be no kennels permitted on any Lot for the commercial breeding of domestic pets. No liquor, beer, wine or other intoxicating substances shall be sold within the bounds of the Subdivision.

17. Whether expressly stated or not in any deed conveying any Lot, each conveyance shall be subject to existing governmental zoning and subdivision ordinances or regulations in effect thereof.

18. All Lots must, from the date of purchase, be maintained by Owner in a neat and orderly condition (grass being cut when needed, as well as leaves, broken limbs and other debris being removed when needed). Tree limbs, rocks, and other debris must be kept out of the street. In the event that an Owner fails, of his own volition, to maintain Owner's Lot in a neat and orderly condition, the Developer or the homeowners association may venture upon the Lot without liability and proceed to put the Lot into a neat and orderly condition, billing the cost of such work to Owner. All Owners in the Subdivision are requested to aid in keeping cars, trucks, and delivery trucks off the curbs of the streets, as the same can easily be broken, particularly when new. Also, Owners must keep the street clear of concrete blocks, concrete, and building materials while residence is under construction.

19. There shall be no detached garages, outbuildings or servant's quarters; but a bathhouse built expressly in conjunction with a private swimming pool shall not be included in this prohibition, provided the requirements of Paragraph 14 are met. Thus, a bathhouse will not have to be connected or attached to the Dwelling Unit. However, such structure shall not be included in complying with any minimum square footage requirements as otherwise set forth herein.

20. In the event of minor violations of these restrictive covenants, a waiver thereof may be made by the Developer. Any such waiver shall be in writing and recorded in the Superior Court Clerk's Office of Catoosa County, Georgia.

21. No sign of any character shall be displayed or placed upon any part of the Subdivision except those advertising the residences that are for sale or for rent and those used by the Developer to advertise the Subdivision during the construction and sales period. Such signs shall not exceed twelve (12) square feet in size nor have an overall height exceeding five (5) feet above ground level.

22. Any damage done to street, sidewalk or curbing by the Owner of any Lot or by contractor employed to build improvements on any Lot will be repaired immediately at the expense of Owner or contractor. Temporary construction support must be provided for the curbs and sidewalks by Owner or contractor during the time of construction.

23. Builders shall maintain Lots and construction sites in a clean manner during construction, and trash and excess material shall be cleared every two (2) weeks. Mud or debris on the street caused by new construction must be cleaned with reasonable promptness by the contractor causing such to occur.

24. Fences are allowed no nearer the front line than the rear elevation of the residence. No chain-link or cyclone -type fencing may be used; the design and material used in any such fence construction must be approved by the Developer.

25. Any front porch attached to any residence or dwelling in the Subdivision shall have a foundation on such porch that matches the foundation of the residence or dwelling.

26. Builder agrees to sod, or have sodded, the front and side yards and to plant, or have planted, 2 trees appropriately and decoratively placed in the front yard of the Lot prior to the time of final inspection. Builder also agrees to construct, or have constructed a sidewalk 42 inches in width, 18 inches from the curb, parallel with the street across the front of the Lot; these measures may be varied from only upon the written approval of the Developer. The sidewalk is to meet Subdivision standards, applicable code, and shall be constructed before the final inspection.

27. In the event that, for any reason, any one or more of the foregoing protective covenants and restrictions shall be construed by judgments of decree of any court of record to be invalid, such section shall in no way effect the other provisions which shall remain in full force and effect. The Developer hereby declares that covenants and restrictions are not interdependent but severable, and any one would have been adopted even without the others.

28. Each and every one of the covenants, conditions and reservations shall attach to and run with each and every one of the Lots and titles to and estates herein, shall be subject thereto and the same shall be binding upon each and every Owner or occupant of the same until May 1, 2024 and shall be extended automatically to apply to each of said lots for successive periods of twenty (20) years thereafter unless, by action of a minimum of sixty-six and 2/3 (66-2/3) percent of the then Owners of the Lots, it is agreed to change said covenants in whole or in part; provided, further, that the instrument evidencing such action must be in writing and shall be duly recorded in the Superior Court Clerk's Office of Catoosa County, Georgia.

29. Until the Turnover Date, as defined in Article IV of the By-laws, Declarant may amend this Declaration in its sole and absolute discretion. After the Turnover Date, Declarant may amend this Declaration at any time and from time to time, in its sole and absolute discretion, if such amendment is: (a) necessary to bring any provisions hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on a Lot, (c) required by an institutional lender or a government mortgage agency or purchaser of mortgage loans to enable the same to make, insure or purchase mortgage loans on a Lot; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on a Lot subject to the Declaration; or (e) necessary to correct any stenographic, scrivener's or surveyor's error or any error of a like nature, provided, however, any such amendment shall not adversely affect the title to a Lot, unless the Owner thereof shall consent thereto in writing.

After the Turnover Date and so long as it still owns any part of the property described in the Subdivision Plat for development, Declarant may amend this Declaration in its sole and absolute discretion for any other purpose, provided, however, that such amendment shall not materially and adversely affect the rights of any Owner of a Lot without the approval of such Owner.

After the Turnover Date, (a) any non-Declarant initiated amendment, or (b) any Declarant initiated amendment which has a materially adverse effect upon the rights of an Owner of a Lot, shall require the affirmative vote (in person or by proxy) or the written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total votes in the Association (other than Declarant), and the consent of Declarant, so long as Declarant owns any portion of the property describes in the Subdivision Plat. However, the percentage of votes necessary to amend a specific clause shall be not less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant.

Any amendment made prior to or after the Turnover Date shall not be inconsistent with this Declaration.

30. Neither the undersigned, nor any part of the parties claiming under the undersigned, shall or will convey, devise or demise any or either of the Lots, or any part of same, except as being subject to these covenants, conditions and restrictions, and the obligation to observe and perform the same, these covenants, conditions and restrictions shall run with and be appropriate to the said land and every part thereof as fully as it expressly contained in proper and obligatory covenant of conditions in each and every contract or conveyance of or concerning any part of the said land of the improvements to be made thereon.

31. All of the Lots in the Subdivision shall be subject to any assessments provided for in any applicable homeowners association By-Laws for this subdivision.. Such assessments shall be primarily used for, but not solely limited to the upkeep and maintenance of the common properties of the subdivision, which shall include the entrance area.

32. If any party or parties shall violate or attempt to violate any of the covenants or restrictions herein provided for before May 1, 2024, or within the extended time as hereinbefore provided for, it shall be lawful for the Developer, its successors, heirs of assigns, or any person or

persons owning any portion of a Lot to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or conditions; and either to prevent him or them from so doing or to recover damages or other dues for such violation, including reasonable attorney's fees. Developer reserves the right to waive restrictions until a Dwelling Unit has been constructed on each lot in said subdivision.

COOTS AND GORDY CONSTRUCTION, LLC

By: *Doug Coots*
DOUG COOTS

Title: OWNER

By: *John L. Gordy, Jr.*
JOHN L. GORDY, JR.

Title: OWNER

STATE OF GEORGIA:
COUNTY OF CATOOSA:

Before me, a notary public for the state and county aforesaid, personally appeared John L. Gordy, Jr. and Doug Coots with whom I am personally acquainted or proved to me by sufficient evidence, and who, upon oath, acknowledged himself to be the owners of Coots and Gordy, Construction, LLC, the within-named bargainor, a limited liability company, and that they as such John L. Gordy, Jr. and Doug Coots executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by themselves as owners.

Signed, sealed and delivered
in the presence of:

Beta Clark
WITNESS

Sandy Frye
NOTARY PUBLIC

My commission expires:

