

**DECLARATION OF RESTRICTIONS AND COVENANTS  
AZALEA WALK COMMUNITY  
TIFTON, TIFT COUNTY, GEORGIA**

THIS DECLARATION is made by PETER M. GARVEY and RICHARD H. MARBUT (hereinafter sometimes called "*Declarant*").

**RECITALS**

Declarant is the owner of the real property described in Exhibit "A" attached hereto and made a part hereof.

Declarant desires to subject the real property described in Exhibit "A" to the provisions of this Declaration, and to avail the Community of the provisions and benefits of the Georgia Property Owners' Association Act codified at O.C.G.A. Section 4403-220, et seq.;

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A", including the improvements constructed or to be constructed thereon, is hereby subject to the provisions of this Declaration, and the provisions of O.C.G.A. Section 44-3-220, et seq. and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants and restrictions (sometimes referred to herein collectively as "*covenants and restrictions*") hereinafter set forth, which are for the purpose of protecting the value and desirability of the property and which shall run with the title to the real property described in Exhibit "A", and shall be binding on all persons having any right, title, or interest in all or any part thereof, and their respective heirs, legal representatives, successors, successors in title, and assigns, and shall inure to the benefit of the Association and each and every owner as those terms are defined herein.

**ARTICLE I**

**DEFINITIONS**

- A. "*The Act*" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq., as the same is or may be hereinafter amended.
- B. "*Articles of Incorporation*" shall mean the Articles of Incorporation of the Association, as the same may be hereinafter amended.
- C. "*Assessment*" shall mean a share of Association Expenses required for the payment of the Association Expenses which from time to time are assessed against the Lots and the Owners.
- D. "*Association*" shall mean and refer to the Azalea Walk P.O.A., Inc., a non-profit Georgia corporation, its successors and assigns.
- E. "*Board of Directors*" shall mean the Board of Directors of the Association, the members of which shall be appointed and elected from time to time as provided in this Declaration, the Articles of Incorporation, and the By-Laws. The Board of Directors shall be the governing body of the Association.

property referred to herein as the Community or the Property and is more particularly described on Exhibit "A." The Community shall be comprised of 22 Lots, together with roads, utility systems, and other improvements serving the Lots.

Section 2. Lots and Other Interests Subject to Plan of Development. Every purchaser of a Lot shall purchase such Lot and every mortgagee and lienholder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Declarant's plan of development as herein set forth. Any provisions of this Declaration to the contrary notwithstanding, the provisions of this Declaration may not be abrogated, modified, rescinded, supplemented, or amended in whole or in part without the prior written consent of Declarant.

### ARTICLE III

#### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and pass with the title to every Lot, whether or not the same shall be referred to in any deed conveying title to any Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the use of any recreational facility situated upon the Common Area.

(b) The right of the Association to suspend the voting rights of an Owner, for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all of 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 deed or transfer shall be effective unless an instrument agreeing to such deed or transfer has been recorded. A vote of 70% of the members shall be required to approve such deed or transfer.

(d) The right of the Association to make repairs to the Common Areas, including but not limited to any roads, easements, gas lines and gas lights, or the entrance.

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

Section 3. Owners' Adjoining Property Rights. Each Owner may have a common wall with at least one (1) adjoining property Owner as well as a connected roof, common utility lines, and other possible devices or items jointly benefitting both the Owner and the adjoining property Owner. Each Owner is hereby granted an easement and right to repair any common walls, pipes in the walls, or any other defective, unsightly, dangerous, or decaying device, item, utility, or the like. This provision shall be broadly construed since by way of necessity each Owner shall be able to protect his property and correct or repair any type of problem that might occur.

### ARTICLE IV

#### POWERS OF THE ASSOCIATION AND BOARD OF DIRECTORS

The powers of the Association and the Board of Directors shall be as set forth and shall be subject to the limitations and restrictions set forth in the Act, the Georgia Non-Profit Corporation Act, this Declaration, the Articles of Incorporation, and the By-Laws of the Association.

or privilege reasonably to be implied from the existence of any right or privilege granted herein or reasonably necessary to effectuate any right or privilege granted herein.

Section 8. Restrictions on Capital Improvements. At all times hereafter, all capital improvements to the Common Area, except for replacement or repair of those items installed by the Declarant and except for personal property related to the maintenance of the Common Area, shall require the approval of seventy per cent (70%) of the votes entitled to be cast.

## ARTICLE VI

### COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Real and Personal Obligations of the Assessment. The Declarant, for each Lot owned within the properties, hereby covenants and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, (a) Annual assessments or charges, and (b) Special assessments for capital improvements and for the purpose of eliminating a deficit, such assessments to be established and collected as herein provided. The Annual and Special Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and attorney's fees, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment falls due. Obligation for delinquent assessments shall pass to his successor in title. Assessments against the Lot Owners shall be made to raise funds to pay the common expenses of the Property and contribute a pro rata share of the maintenance of the Common Areas and front, rear, and side yards of the Community and shall be governed by the following provisions:

(a) Liability. Each Lot Owner shall be liable to the Association for all sums as are lawfully assessed by the Association against him or his Lot or Lots in accordance with the terms and provisions of this Declaration and the Articles of Incorporation and By-Laws. In addition to exercising the remedies provided for herein, the Association may enforce such liability by an action at law to recover all amounts assessed against each unit owner in accordance with the provisions of this Declaration.

(b) Creation of the Lien and Personal Obligation for Assessment. Each owner of any Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association assessment which shall be fixed, established, and collected as herein provided; however, nothing contained herein shall be construed to obligate Declarant to pay assessments on Lots prior to the sale of said Lots.

(c) Uniform Rate Assessment. All annual assessments shall be fixed at a uniform rate for all Lots except as follows:

(i) Any common expenses benefitting less than all of the Lots may be specially assessed equitably among all of the Lots so benefitted, as determined by the Board, except that the mowing expense shall not be abated even if an Owner elects to mow his own grass (which can only be done by Owner within a fenced area) unless the Board votes otherwise;

(ii) Any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots may be specially assessed against the Lot or Lots, the conduct of any occupant, licensee, or invitee of which occasioned any such common expenses;

(iii) Any common expenses significantly disproportionately benefitting all of the Lots should be assessed equitably among all of the Lots in the Community as determined by the Board.

(f) Special Assessments. If for any reason, including nonpayment of any Lot Owner's assessments, an annual budget adopted by the Board of Directors for any fiscal year proves inadequate to defray the common expenses for such fiscal year, the Board of Directors may, at any time, levy a special assessment to raise the additional funds necessary to defray such common expenses, which special assessment shall be due and payable at such time and in such installments as the Board of Directors shall determine. Additionally, the Board of Directors shall be authorized to levy special assessments under the circumstances described in this Declaration.

(g) Special Assessments for Capital Improvements. In addition to the assessments which shall be levied against the Lot Owners, the Board of Directors shall be authorized, upon the affirmative vote of 70% of the Lot Owners entitled to cast votes to levy a special assessment for the purpose of defraying, in whole or in part, the costs of any capital improvements to be made upon the common elements, or for the costs of making repairs or replacements which are not provided for in the then current budget of the Association. Any such special assessments for the capital improvements and repairs shall be payable at such time and in such installments as the Board of Directors shall determine.

(h) Collection. In addition to all other remedies provided by law, including those set forth in O.C.G.A. Section 44-3-222, et seq., as amended, the Association may enforce collection of the assessments for which a lot Owner is liable, together with all other amounts as may be owned by such Lot Owner to the Association, as hereinafter provided.

(i) In the event that any Lot Owner shall fail to pay any installment of any assessment levied against him within ten (10) days after such installment shall be due and payable and within five (5) days after written notice is mailed to the Lot Owner, the entire unpaid balance of such assessment for the remainder of the fiscal year, at the option of the Board of Directors, shall be accelerated and be declared immediately due and payable in full, without notice to such Lot Owner.

(ii) In the event that any Lot Owner shall fail to pay within five (5) days after the same shall be due, any amounts due and payable to the Association, such Lot Owner shall be liable for the payment of, and shall pay, in addition to the amounts so due the Association:

(a) A late charge equal to Ten Dollars (\$10.00) or ten percent (10%) of the amount so due, whichever is the greater;

(b) interest on the amount so due, and the aforesaid late charge appertaining thereto, from the date same were due and payable, at the rate of ten percent (10%) per annum, until paid.

(c) the cost of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Lots, and fifteen percent (15%) of the total amount due as reasonable attorney's fees; and

(d) in the event the Association shall seek to foreclose its lien on the Lot of such owner, the fair rental value of the Lot from the time of the institution of suit until sale of the unit at foreclosure (or until the judgment rendered in such suit is otherwise satisfied).

(iii) All sums lawfully assessed by the Association against any Lot Owner or Property Owner's Association Lot, whether for the share of the common expenses pertaining to that Lot, fines, or otherwise and all reasonable charges made to any Lot Owner or Lot for material furnished or services rendered by the Association at the Owner's request to or on behalf of the Lot Owner or Lot, shall, from the time the sums become due and payable, be the

property located adjacent to the Community. All rubbish, trash, and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. No garbage cans shall be allowed in the front (along Allison's Way) of any dwelling.

Section 5. Prohibited Structures. No mobile home, house trailer, factory, or manufactured assembled homes, modular homes, tent, shack, barn, or other outbuilding or structure (except accessory buildings otherwise permitted hereunder) shall be placed on any Lot at any time, either temporarily or permanently.

Section 6. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, provided that said pets are not kept, bred, or maintained for any commercial purpose, are not permitted to roam free, and in the sole discretion of the Board of Directors, do not endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community. Dogs which are household pets shall at all times, whenever they are outside a dwelling, be on a leash. No structure for the care, housing, or confinement of any pets shall be maintained on any Lot. Fences are permitted but must be made of wood and the size and color must be approved by the Board of Directors.

Section 7. Incapacitated Motor Vehicles. No automobile or motor driven vehicle may be left upon any Lot for a period longer than five (5) days in a condition such that it is incapable of being operated upon the public highways. After such five (5) day period, such vehicle shall be considered a nuisance and detrimental to the welfare of the neighborhood and must be removed from the Community. Any towed vehicle, boat, motor home, or mobile home regularly stored upon any Lot, or temporarily kept thereon for periods longer than twenty-four (24) hours each, shall be considered a nuisance and must be removed from the Community. The foregoing, however, does not apply to such boats or other vehicles, whether motor-driven or towed, as are stored wholly within a private garage or trailer storage areas, if any, designated by Declarant or the Association. No commercial vehicles may be parked, stored, or temporarily kept within the Community, unless such vehicles are stored wholly within private garages, are within the Community temporarily to service existing improvements, or are used in connection with the construction of improvements within the Community.

Section 8. Nuisance. It shall be the responsibility of each Lot Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of buildings or grounds on his or her Lot or Lots. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of property in the neighborhood by the Owners thereof.

Section 9. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

Section 10. Antennas. No Owner shall erect, use, or maintain any outdoor antenna or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic radiation, whether attached to a building or structure or otherwise without the prior written consent of the Board of Directors; provided, however, Declarant and the Association shall have the right to erect and maintain such devices or authorize the erection and maintenance of such devices. Each Owner acknowledges that this provision benefits all Owners.



along Allison's Way, with Allison's Way being one boundary line of said easement, as is also described on Exhibit "B."

## ARTICLE VIII

### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot in the Community shall be a member of the Association. If title to a Lot is held by more than one person, each of such persons shall be members. Membership shall be appurtenant to the Lot to which it appertains and shall be transferred automatically. Notwithstanding the above, each Lot shall be entitled to one (1) vote in the Association. The vote for such Lot shall be exercised as said Owners determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 2. Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation and By-Laws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners of Lots as set forth herein. In the event of any conflict or inconsistencies among this Declaration, the Articles of Incorporation, or the By-Laws of the Association, this Declaration and the Articles of Incorporation (in that order) shall prevail.

## ARTICLE IX

### DAMAGE OR DESTRUCTION

(A) Repair, reconstruction, or rebuilding of the common elements following damage or destruction to all or any portion of the common elements shall be governed by the following provisions:

(1) Estimates of the Cost of Repair. As soon as practicable following the occurrence of any damage to, or destruction of any portion of the common elements, the Board of Directors shall obtain estimates of the cost of repairing and restoring such portion of the common elements so damaged or destroyed to substantially the same condition as such portion of the common elements were in prior to the occurrence of such damage and destruction.

(2) Determination to Repair, Reconstruct, or Rebuild. Any damage to, or destruction of the common elements will be repaired, reconstructed, or rebuilt unless the Owners of the Lots to which 70% of the votes in the Association are allocated shall determine within 45 days after the occurrence of the casualty not to repair, reconstruct, or rebuild the same.

(3) Manner of Repair, Reconstruction, or Rebuilding. All repairs, reconstruction, or rebuilding shall be made in accordance with the following provisions:

(a) The damage shall be repaired, reconstructed, or rebuilt substantially in accordance with the plans and specifications for such damaged property prior to the occurrence of such damage, unless the Association votes otherwise;

(b) All of the work of repairing, reconstruction, or rebuilding any portion of the common elements shall be performed under the supervision of the Board of Directors which, in discharging such supervisory responsibility, shall be authorized to employ such building supervisors and architects as the Board of Directors shall deem to be in the best interest of the Association.

(4) Cost of Repairs, Reconstruction, or Rebuilding. The Board of Directors may levy a special assessment against all of the Lot Owners and Lots to raise the funds necessary to defray such cost.

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 (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, provided any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

All amendments other than those specified hereinabove shall be adopted as follows:

(i) at least seventy percent (70%) of the Lot Owners shall be necessary to amend this Declaration. Notwithstanding anything to the contrary herein, it is expressly provided that any amendment which adversely affects the title to any Lot must be approved by the Owner of such Lot in writing.

(ii) The proposed amendment may be proposed by either the Lot Owners or Declarant. The Declarant, or the Association, may call a meeting of the Lot Owners to consider such a meeting upon a petition signed by at least twenty-five percent (25%) of the Lot Owners. If a meeting of the Lot Owners is called to consider such an amendment, the time within which and the manner by which notice of such meeting shall be given, the authorized use of proxies, and the quorum required for the transaction of business at such meeting shall correspond to the requirements for meetings of the Association.

(iii) The consent of the Lot Owners required to approve said amendments shall be obtained by affirmative vote, written consent, or a combination thereof. A meeting of the Lot Owners shall not be required in the event that the requisite approval of the Lot Owners is obtained by written consent. The required consent of Declarant shall be in writing.

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 affecting any Lot unless such holder shall consent thereto in writing. The written consent thereto of any mortgage holder affected thereby shall be filed with such amendment. Every purchaser or grantee of any interest in any real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section. No amendment shall become effective until filed with the Clerk of the Superior Court of Tift County, Georgia.

Section 6. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

Section 7. Gender and Grammar. The singular whenever used herein shall be construed to mean the plural when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 8. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 9. Captions. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

CURVE	RADIUS	TANGENT	LENGTH	DELTA	DEGREE	CHORD	CH. BEARING
C1	40.00'	74.32'	86.23'	123.32'	143° 14' 22"	70.49'	N 43° 47' 01" W
C2	40.00'	74.32'	86.23'	123.32'	143° 14' 22"	70.49'	N 43° 47' 01" W
C3	40.00'	74.32'	86.23'	123.32'	143° 14' 22"	70.49'	N 43° 47' 01" W
C4	40.00'	74.32'	86.23'	123.32'	143° 14' 22"	70.49'	N 43° 47' 01" W

TIFT AVENUE - 100' R/W ( STATE ROUTE - 125 )

