

**DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
DOUBLEGATE SUBDIVISION**

GEORGIA, Fulton County, Clerk's Office Superior Court
Filed & Recorded JUN 3 1988 at 11:49

Barbara J. Price (Signed) CLERK

BOOK 1159SPAGE036

- TABLE OF CONTENTS -

<u>ARTICLE</u>	<u>SECTION</u>	<u>PAGE</u>
I.	DEFINITIONS	2
II.	PROPERTY SUBJECT TO THIS DECLARATION	3
III.	BUILDING REQUIREMENTS	3
	1. Subdivision of Unit.....	3
	2. Approval of Plans.....	4
	3. Building Location.....	4
	4. Provision of Adequate Parking.....	5
	5. Attachment of Utilities.....	5
	6. Other Building Requirements.....	5
IV.	USE RESTRICTIONS	
	1. Residential Use.....	7
	2. Signs.....	7
	3. Mailboxes, Property Identification Markers, and Decorative Hardware..	8
	4. Clotheslines, Garbage Cans, Woodpiles, Etc.....	8
	5. Prohibited Structures	8
	6. Animals and Pets.....	8
	7. Parking.....	9
	8. Nuisance.....	9
	9. Required Maintenance.....	10
V.	GENERAL PROVISIONS	
	1. Enforcement.....	10
	2. Duration.....	11
	3. Amendment.....	11
	4. Interpretation.....	13
	5. Gender and Grammar.....	13
	6. Captions.....	14
	7. Severability.....	14
	8. Perpetuities.....	14

DECLARATION OF RESTRICTIONS AND COVENANTS

FOR

PHASE V OF DOUBLEGATE SUBDIVISION

THIS DELCARATION made of the date hereinafter set forth by JOHN'S CREEK DEVELOPMEMT, INC., a Georgia corporation, (hereinafter sometimes called "Declarant");

W I T N E S S E T H

WHEREAS, Declarant is the owner of the real property described in Article II of the Declaration; and

WHEREAS, Declarant desires to subject said real property described in Article II hereof to the provisions of this Declaration;

NOW, THEREFORE, Declarant hereby declares that the real property described in Article II of this Declaration, including the improvements constructed or to be constructed thereon, is hereby subject to the provisions of this Declaration 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 and which shall run with the title to the real property hereby or hereafter made subject hereto, and shall be binding on all Persons having and right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns, and shall inure to the benefit of each and every owner of all or any portion thereof.

Article I
Definitions

(a) "Community" shall mean and refer to that certain property described on Exhibit "A" attached hereto and incorporated herein by this reference.

(b) "Declarant" shall mean and refer to John's Creek Development, Inc., a Georgia corporation, and the successors-in-title and assigns of the said John's Creek Development, Inc., provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property in the Community, and provided, further, in the instrument of conveyance to any successor-in-title or assign, such successor-in-title or assign is designated as the Declarant hereunder by the grantor of such conveyance, which grantor shall be the Declarant hereunder at the time of such successor Declarant, all rights of the former Declarant in and to such status as Declarant hereunder shall cease. It is understood that as to all of the property within the Community, there shall be only one (1) person or legal entity entitled to exercise the rights and powers of the Declarant hereunder at any one point in time; and provided further, Declarant may assign its rights as set forth in this Declaration to such Person or Persons as it deems proper, including specifically, without limitation, DoubleGate Homeowners Association, Inc., a Georgia corporation.

(c) "Mortgage" means any mortgage, deed to secure debt, security deed, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(d) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Unit located within the community, excluding, however, and Person holding such interest merely as security for the performance or satisfaction of any obligation.

(e) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

(f) "Unit" shall mean any plot of land located within the Community which constitutes a single dwelling site designated on any plat of survey recorded in the Office of the clerk of the Superior Court of Fulton County, Georgia, as well as any building or any portion of any building located thereon which is intended for independent residential use.

Article II
Property Subject To This Declaration

The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property described as the Community in Article I hereof.

Article III
Building Requirements

The following property rights and architectural restrictions shall apply to the property which is subjected to the Declaration.

Section 1. Subdivision of Unit. No unit shall be subdivided or its boundary lines changed except with the prior written approval of Declarant. Declarant, however, hereby expressly reserves the right to replat any two or more Units in order to create a modified residential Unit or Units and to take such other steps as reasonably may be necessary to make such replatted Unit or Units suitable as a building site or sites. All of the covenants and restrictions set forth herein shall apply to each such Unit, if any, so created. Any such division, boundary line change, or replatted Unit shall not be in violation of the applicable Fulton County subdivision and zoning regulations.

Section 2. Approval of Plans. No building, fence, wall, road, driveway, parking area, tennis court, swimming pool, or other structure or improvement of any kind shall be erected, placed, altered, added to, modified, maintained, or reconstructed on any Unit until the plans thereof and for the proposed location thereof upon the Unit shall have been approved in writing by Declarant. "Improvement" shall mean and include any improvement, change, or modification of the exterior appearance of a Unit, including the landscaping of such Unit, from the state existing on the date of the conveyance of such Unit to the Unit Owner that initially will reside in the Unit. Before taking any action requiring approval under this Section, a Unit Owner shall submit to Declarant a construction schedule and two (2) complete sets of final plans and specifications showing site plan (which site plan shall show driveways, patios, decks, accessory building, and all other components referenced in the first sentence of this section), landscape layout, floor plans, exterior elevations and exterior materials, colors, and finishes. No changes or deviations in or from such plans and specifications, as approved, shall be made without the prior written approval of Declarant. No alteration in the improvement shall be made without like approval by Declarant. Declarant shall act with all reasonable promptness upon receipt of such information to approve or disapprove the same. If Declarant does not reject the plan within thirty (30) days, then the plan is automatically approved.

Neither Declarant nor any Person or party to whom Declarant shall assign such function shall be responsible or liable in any way for the performance of any builder or for any defects in any plans or specifications approved in accordance with the foregoing nor for any structural defects in any work done. Declarant may refuse approval of plans, siting, or specifications upon any ground, including purely aesthetic considerations, which, in its sole discretion, it shall deem sufficient. Approval of any one or a series of improvements hereunder shall not waive Declarant's rights to approve subsequent improvements to the same Unit.

Section 3. Building Location. Since the establishment of inflexible building setback lines for locating houses or other structures tends to force construction of buildings both directly behind and directly to the side of other homes or buildings with detrimental effect on privacy, view, preservation of

important trees, etc., no specific setback lines are established by these covenants and restrictions other than those which may be required by applicable governmental rules and regulations and those which may be shown on recorded plats which shall be observed. The Declarant reserves the right to control solely and absolutely the precise site and location of any proposed house, dwelling, building, or other structure or improvement upon all Units. Such location shall be determined, however, only after reasonable opportunity is afforded the Unit Owner to request a specific site.

Section 4. Provision of Adequate Parking. Unless otherwise approved by Declarant, there shall be a minimum of two (2) covered automobile parking stalls for each single-family residence constructed on any Unit, and these stalls shall be constructed entirely within the building setback area.

If the occupants of a Unit shall have more motor vehicles than the number of covered parking stalls serving their Unit, the Owner of such Unit shall provide paved offstreet parking for each of such additional motor vehicles and, unless otherwise approved by Declarant, this parking shall be located entirely within the building setback area.

Section 5. Attachment of Utilities. No permanent utility connections shall be made to any dwelling or other structure by any utility, public or private, until the Declarant has verified general compliance with these covenants and restrictions and with the plans and specifications therefore submitted pursuant to Section 2, above, and has approved said utility connections in writing. Each Unit, parcel of land, residence, building, or other structure on said property, when required to be served by a utility, must be served by a water system and other utilities approved by the Declarant.

Section 6. Other Building Requirements. The requirements set forth below are in no way to be construed as limiting the exercise of the Declarant's discretion pursuant to Sections 2 and 3, above.

(a) Each residence and other structures shall be constructed only of materials and in colors approved by the Declarant.

(b) Driveways shall be constructed only of materials approved in writing by the Declarant.

(c) The exterior of all residences and other structures must be completed within nine (9) months after commencement of construction, and the landscaping on such Unit must be completed within ninety (90) days thereafter, except, in each case, where, in the sole discretion of the Declarant, such completion is not possible or would result in great hardship to the Owner or builder due to strike, fire, national emergency, or natural calamity.

(d) All electrical service, cable television, and telephone lines shall be placed underground, and no exterior pole, tower, antenna, or other device for the transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation, or for any other purpose shall be erected, placed, or maintained on any Unit, except as may be constructed by the Declarant or approved by the Declarant.

Further, the design, type, locations, size, color, and intensity of all exterior lights shall be subject to control by the Declarant, and only such exterior lighting as shall have been approved by the Declarant shall be installed or used on any Unit. Each owner acknowledges that this provision benefits all Owners, and each Owner agrees to comply with the terms of this provision, despite the fact that erection of an outdoor antenna or similar device would be the most cost-effective way to achieve satisfactory transmission or reception of the signals to be transmitted or received.

(e) Mechanical equipment (other than heating or air conditioning equipment), fuel or water tanks, and similar storage receptacles shall be installed only within the main dwelling, within an accessory building, buried underground, or otherwise located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Community. Heating and air conditioning equipment shall be installed in such location as will, to the maximum extent possible, not be

readily visible to the view of neighboring Units, streets, and property located adjacent to the Community.

(f) No structure of a temporary character shall be placed upon any Unit at any time without written permission of the Declarant, except for shelters used by a building contractor during the course of construction. Such temporary shelters may not, at any time, be used as residences or be permitted to remain on the Unit after completion of construction.

Article IV Use Restrictions

Section 1. Residential Use. All Units shall be used for single-family residential purposes exclusively. Except as otherwise provided herein, no structure or other improvement shall be erected, altered, placed, maintained, or permitted to remain on any Unit other than one (1) detached single-family dwelling. No business or business activity shall be carried on or upon any Unit at any time except with the written approval of the Declarant; provided, however, nothing herein shall prevent Declarant (or Persons designated by Declarant) from using any Unit for the purpose of carrying on business related to the development and management of the Community, including the construction of a building (or buildings) on a Unit (or Units) for use as a model home (or model homes).

Section 2. Signs. No commercial signs or advertising of any kind, except for "For Sale" or "For Rent" signs of a type and location consistent with the type and locations of such signs in other first class residential developments in the vicinity of the Community, shall be erected, placed, or maintained on any Unit, except with the written permission of the Declarant or except as may be required by legal proceedings. The approval of signs shall be upon such conditions as may from time to time be determined by the Declarant and may be reasonable withheld. If such permission is granted, the Declarant reserves the right to restrict the size, color, material, and content of such signs. Nothing herein shall be construed, however, to prevent Declarant from erecting placing or maintaining upon any unit or

permitting the erection, placing, or maintaining upon any Unit by builders of residences such signs as Declarant may deem necessary or desirable during the period of the development, construction, and sale of the Units and/or residences constructed thereon. Also, the provisions of this Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Unit as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or as transferee pursuant to any proceeding in lieu thereof.

Section 3. Mailboxes, Property Identification Markers, and Decorative Hardware. The Declarant shall have the right to approve the location, color, size, design, lettering, and all other particulars of mail and newspaper boxes, if any, and of name signs on such boxes, as well as property identification markers and decorative hardware, whether attached to such mailbox, to any structure within the Unit, or affixes or erected upon the grounds of the Unit.

Section 4. Clotheslines, Garbage Cans, Woodpiles, Etc. All clotheslines, garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Community. All rubbish, trash, and garbage shall be regularly removed from the Unit and shall not be allowed to accumulate thereon.

Section 5. Prohibited Structures. No mobile home, house trailer, tent, shack, barn, or other outbuilding or structure (except accessory buildings permitted above) shall be placed on any Unit at any time, either temporarily or permanently, without written permission of the Declarant; provided, however, house trailers, temporary buildings, and the like shall be permitted for construction purposes during the construction period of residences or as one or more real estate sales offices of Declarant for the sale of property.

Section 6. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Unit, 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

Declarant, do not make objectionable noise, constitute a nuisance, and do not endanger the health of the Owners of other Units 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 confined within a pen or on a leash. No structure for the care, housing, or confinement of any pets shall be maintained so as to be visible from neighboring property. Any such structure shall be subject to the approval of Declarant as provided for herein.

Section 7. Parking. Unless and except to the extent that the occupants of a Unit shall have more motor vehicles than the number of parking stalls serving their Unit, all such motor vehicles shall be parked within such parking stalls.

No automobiles or motor driven vehicles may be left upon any unit for a period longer than thirty (30) days in a condition such that it is incapable of being operated upon the public highways. After such thirty (30) day period, such vehicle shall be considered a nuisance and detrimental to the welfare of the neighborhood and may be removed from the community. Any towed vehicle, boat, motor home, or mobile home regularly stored upon any Unit or temporarily kept thereon for periods longer than twenty-four (24) hours each shall be considered a nuisance and may be removed from the Community. The foregoing, however, does not apply to such boats or vehicles, whether motor-driven or towed, as are stored wholly within a private garage or trailer storage area, if any, designated by Declarant. 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 Unit owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of buildings or grounds on his or her Unit or Units. No Unit shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Unit 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 Unit, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property adjacent to the Unit. There shall be no assembly or disassembly of any automobiles or vehicles that shall be visible by the other members of the association. 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. Required Maintenance. All Units, together with the exterior of all improvements and the landscaping located thereon, shall be maintained on a neat, attractive, and safe condition by their respective Owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing, and caring for roofs, gutters, downspouts, building surfaces, patios, porches, courtyards, and other exterior improvements.

Article V General Provisions

Section 1. Enforcements. Each Owner shall comply strictly with the covenants and restrictions set forth in this declaration. In the event of a violation or breach or threatened violation or breach of any of the same, Declarant or any aggrieved Unit Owner, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. In addition to all other remedies, Declarant shall have the right to enter upon any portion of the Community where a violation exists or where Declarant has reasonable grounds for believing a violation exists and summarily abate or remove, at the expense of the violating Unit Owner and using such force as may be reasonably necessary, any improvement, thing, or condition that may be or may exist contrary to the intent and meaning of the provisions hereof, if after ten (10) days' written notice of such violation it shall not have been corrected by such Unit Owner. Declarant shall not be deemed guilty or liable for any manner of trespass for such entry, abatement, or removal. Such notice may be given in person or by

registered mail. Should the Declarant employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the violating Unit Owner. Inasmuch as the enforcement of the provisions of this Declaration is essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Unit Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that Declarant or any aggrieved Unit Owner, in addition to all other remedies, may require and shall be entitled to the remedy by injunction to restrain any such violation or breach or threatened violation or breach. No delay, failure, or omission on the part of Declarant or any aggrieved Unit Owner in exercising any right, power, or remedy thereafter as to the same violation or breach or as to a violation or breach occurring prior or subsequent thereto shall bar or affect its right to exercise or enforce said rights, powers, or remedies. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant for or on account of any failure to bring any action on account of any violation or breach or threatened violation or breach of the provisions of this Declaration, however long continued, or for imposing provisions which may be unenforceable.

Section 2. Duration. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law; provided, however, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run and bind the land so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law for successive periods not to exceed the period permitted by such law, provide such renewal or extension is approved by a least sixty percent (60%) of the Unit Owners. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of the Declaration may be extended and renewed as provided in this Section.

Section 3. 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 title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Units subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgage loans on the Units subject to this Declaration, provided nay such amendment shall not adversely affect the title to any Owner's Unit unless any such Unit Owner shall consent thereto in writing.

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

(a) As long as Declarant has not assigned its approval rights pursuant to Article I of this Declaration, the consent of Declarant and of at least fifty percent (50%) of the Unit Owners shall be necessary to amend this Declaration. After Declarant has assigned its approval rights pursuant to Article I of this Declaration, the consent of the Person or Persons to which Declarant assigns its approval rights and of at least fifty percent (50%) of the Unit 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 Unit must be approved by the Owner of such Unit in writing.

(b) The proposed amendment may be proposed by either the Unit Owners or Declarant or, if Declarant has assigned its approval rights, by the Person or Persons to which the approval rights are assigned. The Declarant or the Person or Persons to which Declarant has assigned its approval rights, as the case may be, may call a meeting of the Unit Owners to consider such an amendment and shall be required to call such a meeting upon a petition signed by at least twenty-five percent (25%) of the Unit Owners. If a meeting of the Unit 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 DoubleGate Homeowners Association, Inc., as specified in the By-Laws of DoubleGate Homeowners Association, Inc.

(c) The consent of the Unit Owners required to approve said amendments shall be obtained by affirmative vote, written consent, or a combination thereof. A meeting of the Unit Owners shall not be required in the event that the requisite approval of the Unit Owners is obtained by written consent. The required consent of Declarant or the Person or Persons to which it has assigned its approval rights, as the case may be, shall be in writing.

No amendment to the provisions of the Declaration shall materially alter, modify, change, or rescind any right; title, interest, or privilege herein granted or accorded to the holder of any Mortgage affecting any Unit 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 Fulton County, Georgia.

Section 4. 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 5. 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 6. 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 not way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 7. 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 prohibitive 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 provision of this Declaration are declared to be severable.

Section 8. Perpetuities. If any of the provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of John H. Cowart.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument under seal the 28th day of April, 1988.

JOHN'S CREEK DEVELOPMENT, INC.

By: John H. Cowart (signed)

Title: President

Attest: _____

Title: _____

Signed, sealed and delivered
This 28th day of April,
1988, in the presence of:

Gary V. Kohl (Signed)
Witness

Judith Rainey (Signed)
Notary Public