

pd/net: First Ga. Homes
20 WHITLOCK PL
MARIETTA, GA. 30004

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DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

STAGECOACH

STATE OF GEORGIA
COUNTY OF CARROLL

This declaration made and published on **January 29, 2003**, by **First Georgia Homes, Inc.**, hereinafter called "**Builder**".

WHEREAS, Builder is the owner of **Stagecoach**, a subdivision, (hereinafter referred to as "**Stagecoach**") described as follows:

All that tract or parcel of land lying and being in Land Lots 169, 170, 183, and 184 of the 6th District, City of Temple, Carroll County, Georgia, and being more particularly described as **Stagecoach** as shown on Plat Book 78, page 85, Carroll County, Georgia, Records, which plat is incorporated herein and made part hereof by this reference.

WHEREAS, Builder desires to subject **Stagecoach** to the covenants, conditions, restrictions, and easements hereinafter set forth (sometimes referred to herein collectively as "**covenants and restrictions**"), and to create a vehicle and a procedure for the ownership, operation and maintenance of the entry systems and common areas (as hereinafter defined) that are to become a part of **Stagecoach**, each and all of which is and are for the benefit of **Stagecoach** and each owner thereof; and

WHEREAS, Builder has deemed it desirable for the efficient preservation of the values in **Stagecoach** to create covenants and restrictions for the overall benefit of the entire development;

NOW, THEREFORE, in consideration of said benefits to be derived by **Builder** and subsequent owners of said Lots, the undersigned does hereby establish, publish and declare that the covenants and restrictions hereinafter set forth shall apply to all of said lots shown on the aforesaid plat, and to future lots of the **Builder**, except as hereinafter set forth, becoming effective immediately and running with the land, to be binding upon all persons claiming under the undersigned.

The following covenants, conditions, restrictions, and easements are hereby imposed on **Stagecoach**:

1. DEFINITIONS:

- A. The "entry systems" shall consist of such signage and landscaping including piping, lighting, fixtures, walls, monuments and wiring as the **Builder** may install as part of the original construction of **Stagecoach**.
- B. **Stagecoach Home Owner's Association, Inc.**, hereinafter "**Association**" is a Georgia non-profit corporation. The Association shall mean the **Builder** until such time as the conditions in Section 4 below have been met. Thereafter, every person who is the record owner of a fee or undivided fee interest in any residential lot at **Stagecoach** shall be deemed to have a membership in the Association at the time such association is formed as provided herein; provided, however, those persons which purchase lots in order to construct a dwelling on the lot for retail sale to an owner shall not have a membership in the Association and the lot purchased thereby shall not be subject to membership in the Association until that time, if any, that the dwelling located on the lot is occupied by a permanent resident therein. Those having an interest merely as security for the performance of an obligation shall not be members.

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- C. The giving of such an interest shall not terminate a membership. Membership rights and responsibilities shall be as set out herein.
- D. "Owner" as referred to in Section 2 below shall mean permanent record holders of a fee or undivided fee interest in a lot of Stagecoach who have purchased said lot for the purposes of residing therein or who have purchased said lot for the purposes of leasing the permanent dwelling located thereon. "Owner" as referred to in Section II below shall not mean the Builder of those persons, which purchase lots for the purpose of constructing a dwelling on said lot for retail sale to an "Owner".

2. **RIGHTS AND RESPONSIBILITIES OF MEMBERSHIP IN STAGECOACH HOME OWNER'S ASSOCIATION**

- A. Voting. The Association shall have two (2) classes of membership Class "A" and Class "B" as follows:
 - 1. **Class "A"**. Class "A" members shall be all members of the Association as defined in I (B), above, with the exception of the Class "B" members, if any.
 - a. Class "A" members shall be entitled on all issues to one (1) vote for each lot in which they hold the interest required for membership. When more than one person holds such interest in any lot, the vote for such lot shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the lot's vote shall be suspended in the event more than one person seeks to exercise it.
 - 2. **Class "B"**. Class "B" members shall be the **Builder**, or any successor of the **Builder** who assumes the status as Class "B" member in written instrument which Declarant has duly executed and caused to be recorded. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earlier of the following:
 - a. Three (3) months after the date on which the last lot is purchased by an owner entitled to Class "A" membership in the Association.
 - b. The expiration of ten (10) years after the date of the recording of the Declaration; or
 - c. when, in its discretion, the Builder so determines.
 - 3. From and after the happening of these events, whichever occurs earliest, the Class "B" members shall be deemed to be Class "A" members.
 - 4. Class "B" members shall have three (3) votes per lot owned.
 - 5. The members of the Association, having the right to vote as defined herein, shall meet from time to time for the purposes and by such actions as may be required and/or stated herein.
 - a. Assessments.
 - i. Each owner of the residential lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association regular and

special assessments as the Association may determine to be reasonably necessary for the maintenance, operation and upkeep of the entry systems. All such assessments, together with interest at the highest allowable under Georgia Law relating to usury for residential real estate costs, a late charge in the amount of the greater of ten(\$10.00) dollars or ten (10%) percent of the amount past due, and reasonable attorneys fees actually incurred, shall be a charge on the land and continuing lien upon the residential lot and shall also be the personal obligation of the owner of the lot at the time the assessment fell due. The lien created hereby shall exist in favor of the Association. No recorded notice of lien other than this Declaration shall be necessary to render such lien enforceable. The Association may bring an action at law against the owner personally obligated to pay the same. Once the annual assessment has commenced as to any lot, may waive or otherwise escape liability of such lot or by failure or inability to utilize any of the services provided through the Association with respect to such lot. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which judicial liens on real property may be foreclosed in Georgia. A suit to recover a money judgment for unpaid assessments hereunder shall be maintainable by the Association. Upon default in the payment of any one or more the installments of any assessments, the Association may accelerate the remaining installment payments and declare the entire balance of said assessment then due and payable in full. In any suit to recover assessments, the owner shall be required to pay the costs and fees actually incurred. The owner shall also be required to pay the Association any assessments against the lot, which shall become due during the period of the suit.

- ii. *Rights of Mortgagees.* The lien of the assessment provided in this Section 2 (B) shall be prior and superior to all other liens except only (i) ad valorem taxes; (ii) the lien of a first or second mortgage, if any; to which a lot is subject (iii) the lien of any mortgage recorded prior to the recording of this Declaration; and (iv) any other lien given by Georgia Statutory Law.
- iii. No sale or transfer shall relieve the lot owner from liability for any assessment thereafter becoming due on the lot after the sale or transfer thereof. Each owner shall be personally liable for his or her own portion of each assessment coming due while he or she is the owner of a lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first mortgage holder taking title through foreclosure proceedings.
- iv. Each lot shall be assessed an equal share of the total assessment which shall be paid in such manner and on such dates as may be fixed by a vote of the majority of the members of the Association at a meeting held for that purpose. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property, to pay the costs of the improvements and maintenance of the entry

systems of the lots situated upon the property, and for such other purposes as the Association may determine.

- v. The annual assessments to be levied by the Association shall be equal for all lots. The initiation fee to be levied by the Association shall be One-Hundred (\$100.00) Dollars per lot per year. The annual assessment shall be One-Hundred (\$100.00) Dollars, this amount shall be pro-rated if the time of closing of the permanent loan is after said date. Prior to the end of each fiscal year, the Association shall meet for the purpose of establishing a new annual budget, and new assessments by a majority vote of the members of the Association present thereto. Written notice of the annual assessment shall be sent to each Owner. The due date of the annual assessment shall be January 30th of each year or as established by the members of the Association by a simple majority vote at a meeting held for such purpose.
- vi. If during the fiscal year, the Association shall determine by a majority vote at a meeting called for such purpose that the Association will require additional funds for the current fiscal year to perform its duties under the Declaration, the Association may levy a special assessment, which shall apply to all lots. The Association shall send to each owner notice of such special assessments and the reason therefore at least thirty (30) days before the due date of such special assessments. In addition, should any owner fail or refuse to take any action which is, under the Declaration, or any rules and regulations promulgated by the Association, the responsibility of such owner, and should the Association take such action on behalf of such owner, or otherwise incur any expense because of such owners failure of refusal to act, any expenses so incurred by the Association shall constitute a special assessment against such owner's lot and shall be immediately due and payable by said owner.
- vii. The initial annual assessments as stated in 2 (B)(5) are intended to cover the costs of maintaining landscaping and entry systems installed by the Builder. So long as the charges for the landscaping, yard maintenance services, electricity and water for the entry systems are computed on a per-lot basis, the portion of the annual assessment for any lot attributable to the landscaping maintenance service shall commence as of the date of the formation of the Association as provided in Section 4 below.
- viii. It shall be the duty of the Association by a majority vote of the members present at a meeting held for such purpose to prepare and to adopt a budget conveying the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The Association shall cause the budget and the assessments to be levied against each lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. Notwithstanding the foregoing, however, in the event the Association fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein,

have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

- ix. In addition to the other assessments authorized herein the Association may levy special assessments in any year. Special assessments shall be paid as determined by the Association and the Association may permit special assessments to be paid in installments extending the fiscal year in which the special assessment is imposed. Any such assessment shall be approved by a majority of the voting members present at a meeting held for such purpose.
- x. **Builder** and all participating builders shall be exempt from assessments on all lots owned by them.

b. **Operation and Maintenance of Landscaping and Entry Systems.** The Association shall accept the conveyance of all easements and/or common areas aforementioned herein upon deliverance of such conveyance by the Declarant or its Successors. The Association shall be responsible for the exclusive management and control of the entry systems, including, but not limited to, the obligation to repair, maintain, insure, and keep in proper operating order the entry systems, and entry systems maintenance and landscaping. The nature and level of services shall be as the Association shall reasonably determine in the exercise of sound business judgment by a majority of the voting members present at a meeting held for such purpose.

6. **USE OF PROPERTY.** All lots shall be used only for residential purposes and no business activity shall be carried on or upon any lot at any time, except with the written approval of the Architectural Control Committee as defined herein; provided, however, that nothing herein shall prevent the **Builder** or any builder of homes in **Stagecoach** from using any lot owned by **Builder** or such builder of homes for the purpose of carrying on business related to the development, improvement and sale of property in **Stagecoach**; provided, further, private offices may be maintained in dwellings located on any of the lots so long as such use is incidental to the primary use of the dwelling.

7. **FORMATION OF THE STAGECOACH HOME OWNER'S ASSOCIATION AND ARCHITECTURAL CONTROL COMMITTEE.**

A.

- i. Until ninety (90%) percent of the lots in **Stagecoach** have been fully developed, permanent improvements constructed thereon, and sold to permanent residents or until **January 1, 2005**, which ever event shall first occur, the **Builder** shall be responsible for the maintenance of the entry systems and landscaping appertaining thereto at its own costs and expenses.
- ii. After either of the events described in this Section 4 (A)(1) have occurred, the **Stagecoach Home Owner's Association, Inc.** shall be automatically formed of those persons identified in Section I (B) above who qualify as members of the Association at the happening of either of the events described above and those members shall assume the rights and responsibilities of the Association as outlined in Section 2 above; and the Association shall have the power to promulgate rules and regulations in addition to those

stated herein as its members shall decide. The members shall be authorized to elect officers to carry out the functions and to enforce rules promulgated by the Association. After the formation of the Association, each such member shall thereafter be responsible for any and all assessments attributable to said member's lot provided in Section 2 (B) above.

- b. **Architectural Control Committee.** The "Architectural Control Committee: shall mean, as follows: Until all the lots in **Stagecoach** have been fully developed, permanent improvements constructed thereon, and sold to permanent residents, the Architectural Control Committee shall mean the **Builder**. At such time as all the lots in **Stagecoach** have been fully developed, permanent improvements constructed thereon, and sold to permanent residents, the **Builder** shall notify all of the record owners of lots in **Stagecoach** to that effect, and thereupon the **Builder's** rights and obligations as the Architectural Control Committee shall forthwith terminate; and thereafter, **Stagecoach** shall have the right, power and authority by a majority vote of the members of the Association at a meeting held for such purpose to establish a successor Architectural Control Committee from time to time from its own members and to prescribe rules and regulations pursuant to which such Committee shall act in addition to the powers granted herein. Notice to the record owners by **Builder** under this provision shall be in writing and shall be deemed given if delivered at the lot of each of the record owners.
8. **REVIEW AND APPROVAL OF PLANS.** No building, fence, wall, or other structure shall be commenced, erected, or maintained on any lot, nor shall any exterior addition to or alteration herein be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to the Architectural Control Committee and approved, in writing, as to harmony of external design and location in relation to surrounding structures and topography, by the Architectural Control Committee. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted in writing, or in the event if no suit to enjoin the addition, alteration of change has been commenced prior to the completion thereof, approval by the Architectural Control Committee will not be required. Neither **Builder** nor any member of the Architectural Control Committee shall be liable in damages to anyone submitting plans or specifications for approval under this Section, or to any owner of the property affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Committee for approval agrees by submission of such plans and specifications, and every owner of any lot agrees that he will not bring any action or suit against the **Builder**, or any member of the Architectural Control Committee, to recover for such damage.
9. **BUILDING CONSTRUCTION.** Not more than one (1) single-family dwelling, not to exceed 2 and one-half (2 ½) stories in height, shall be erected on any lot unless otherwise approved, in writing, by the Architectural Control Committee.
10. **SETBACKS AND BUILDING LINES.**
- a. Each dwelling, which shall be erected on any lot, shall be situated on such lot in accordance with the building and setback line shown on the recorded

plat thereof. In no event shall any dwelling be erected and located upon any such lot in a manner, which violates or encroaches upon the building and setback lines shown on the recorded plan thereof.

- b. No fence shall be erected, placed or altered on any lot nearer to any street than the rear corner of the residential dwelling. Privacy fencing shall be of wood and no greater than six (6) feet in height. Any variance in material is subject to the approval of the Architectural Control Committee. **At no time shall chain link fencing be used on any lot for aesthetic or structural reasons.**
- c. For the purpose of determining compliances or noncompliance with the foregoing, building line requirements, terraces, stoops, eaves, wing-walls, and steps extending beyond the outside wall of a structure shall not be considered as part of the structure. No side yard shall be required for any detached garage or accessory outbuilding, which has been approved, in writing, by the Architectural Control Committee, provided all such detached structures must be to the rear of the main dwelling and must not encroach upon the property of any adjacent owner and are per county requirements.

- 11. **OBSTRUCTION OF VIEW AT INTERSECTION.** The lower branches of trees or other vegetation shall not be permitted to obstruct the view at intersections.
- 12. **DELIVERY RECEPTACLES AND PROPERTY IDENTIFICATION MARKERS.** The Architectural Control Committee shall have the right to approve the location, color, design, size, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers. Initial receptacles are supplied by the **Builder** and shall remain the same design, color, size and letter for all time. The Architectural Control Committee plus a majority vote by the owners may change the design, color, size and lettering of receptacles used. All owners must then change out to the newly voted on receptacles. A special assessment may be used to purchase the receptacles in bulk at a discounted rate.
- 13. **USE OF OUTBUILDINGS AND SIMILAR STRUCTURES.** No structure of a temporary nature unless approved in writing by the Architectural Control Committee shall be erected or allowed to remain on any lot, and no trailer, camper, shack, tent, garage, barn or other structure of a similar nature shall be used as residence, either temporarily or permanently; provided, this paragraph shall not be construed to prevent the **Builder** and those engaged in construction from using sheds or other temporary structures during construction.
- 14. **COMPLETION OF CONSTRUCTION.** The association and/or the Architectural Control Committee shall have the right to take appropriate court action, whether at law or in equity, to compel the immediate completion of any residence not completed within one (1) year from the date of commencement or construction.
- 15. **LIVESTOCK.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be provided that they are not kept, bred or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions and must conform to all county regulations and leash laws.
- 16. **OFFENSIVE ACTIVITIES.** No obnoxious, offensive or illegal activities shall be carried on upon any lot, nor shall anything be done thereon which is or may

become an annoyance or nuisance or cause unsanitary conditions to the owners of other lots in Stagecoach.

17. **SIGNS.** No advertising signs or billboards shall be erected on any lot or displayed to the public on any lot except a professional sign over one (1) square foot in size and a sign of not more than five (5) square feet in area may be used to advertise the property for sale or rent. This restriction shall not apply to signs used to identify and advertise the subdivision as a development and construction period provided such signs are approved by the Architectural Control Committee. Also, the provisions of this section shall apply to anyone who becomes the owner of any lot 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.
18. **AESTHETICS, NATURE GROWTH, SCREENING, UNDERGROUND UTILITY SERVICE.** Trees, which have diameters in excess of six (6) inches, measured two (2) feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior approval, in writing, of the Architectural Control Committee. No buried fuel tanks, clothes lines, or above ground pools will be allowed.
19. **ANTENNAE.** No radio, television transmission, reception towers, or satellite dish antennae larger than eighteen (18") inches shall be erected on the property. In no event shall free standing or attached transmission or receiving towers be permitted.
20. **TRAILERS, TRUCKS, SCHOOL BUSES, BOATS, BOAT TRAILERS.** No house trailers or mobile homes, school buses, motor homes, trucks or commercial vehicles more than one (1) ton capacity, boats or boat trailers, utility or landscaping trailers shall be kept, stored or parked overnight either on any street or any lot, except within enclosed garages or at the rear of a lot sheltered so that it is not visible from any road, street or adjoining lot, except for those belonging to the **Builder** needed for operational purposes.
21. **GARBAGE AND REFUSE DISPOSAL.** No lots shall be used or maintained as a dumping ground for rubbish, trash, garbage or other wastes and shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. If such litter or material is found on any lot, the same will be removed by the lot owner of such lot, at the owner's expense.
22. **CHANGING ELEVATIONS.** No lot owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding lots, unless approved in writing by the Architectural Control Committee.
23. **SEWAGE SYSTEM.** Sewage disposal shall be through the city sewer.
24. **WATER SYSTEM.** Water shall be supplied through municipal system or type approved by appropriate state agencies.
25. **MODEL HOMES.** **Builder** of homes in Stagecoach, shall have the right to construct and maintain model homes on any of the lots.
26. **EASEMENTS.** Lots subjected to this Declaration shall be subject to those easements, if any, as set forth on any recorded plat thereof. Also, easements for

installation and maintenance of utilities and drainage facilities are hereby reserved more than six (6) feet of each side line of each lot and over the rear ten (10) feet of each lot and subjected to this Declaration. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The owner of the lot, except for those improvements for which public authority or utility company is responsible, shall maintain the easement area of each lot and all improvements on it continuously.

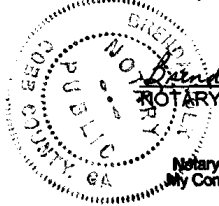
27. **DRIVEWAYS AND ENTRANCE TO GARAGE.** All driveways and entrances to garages shall be concrete.
28. **OTHER PROPERTY.** Without further assent or permit, **Builder**, for itself, its successors and assigns, hereby reserved the right, exercisable from time to time, to extend the scheme of this Declaration to other real property developed as part of **Stagecoach** by filing for record a supplemental declaration in respect to the property to be then subjected to this Declaration.
29. **DURATION.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefits of and be enforceable by the owner of any land subject to this Declaration, their respective heirs, legal representatives, successors and assigns, for a term of twenty (20) years from the date this Declaration is filed for record in the Office of the Clerk of the Superior Court of Carroll County, Georgia, after which time said covenants and restrictions shall be automatically extended for two (2) successive periods of ten (10) years unless an instrument signed by the then record owners of two-thirds (2/3) of the lots has been recorded agreeing to change said covenants and restrictions in whole or in part.
30. **AMENDMENT.** It is agreed that the **Builder** shall have the right to change the dimensions of the lots by further amendment to the recorded plat. In the event of any such change, this Declaration of Restrictive Covenants and Restrictions **Stagecoach**, as amended at any time and from time to time, shall apply to such lots as revised. The **Builder** prior to the sale of any lots may amend this Declaration. This declaration may be amended at any time thereafter and from time to time by an agreement signed by at least ninety (90%) percent of the owners of record, of lots within **Stagecoach**, during the initial twenty (20) year period of the Declarations, or thereafter, by at least seventy-five (75%) percent of the owners of the lots in **Stagecoach**. Any amendment shall not become effective until the instrument evidencing such change has been filed for record in the Office of the Clerk of the Superior Court of Carroll County, Georgia. The written consent thereto of any mortgage holder affected thereby shall also be filed with such amendment. Every purchaser or grantee of any interest in any amendment. Every Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section.
31. **SEVERABILITY.** In the event any provision of this Declaration shall be declared invalid or void by any Court, such determination by the Court shall not invalidate the entire Declaration or any provision thereof and all other such provisions of this Declaration shall remain in full force and effect.
32. **ENFORCEMENT.** Each lot owner shall comply strictly with the covenants, conditions, restrictions and easements set forth in this Declaration. In the event of a violation or breach, or threatened violation or breach, or any of the same, the **Builder**, the Association, the Architectural Control Committee or any aggrieved lot owner, jointly and severally, shall have the right to proceed at law or in equity for the recovery of damages, or for injunctive relief, or both; provided that those

powers vested exclusively in the Association after its formation by this Declaration of Protective Covenants and Restrictions Stagecoach shall be enforceable solely by the Association as provided herein.

Virginia Bryant
WITNESS

BUILDER:
FIRST GEORGIA HOMES, INC.

Terry A. Ogle
BY: TERRY A. OGLE, PRESIDENT



Brenda Velez
NOTARY PUBLIC

Notary Public, Cobb County, Georgia
My Commission Expires Dec. 10, 2006

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