

York + York  
PO Box 246  
Cedar town, GA  
30125

REC: 46591  
DATE: 6/9/03  
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RESTRICTIVE COVENANTS

GEORGIA,  
POLK COUNTY.

This Declaration of Restrictive Covenants, made and published this 30 day of September, 2002 by CHEROKEE HOUSING GROUP, LLC, STRICKLAND HOLLOWAY, JR. AND MILLER MOUNTAIN DEVELOPMENT GROUP, LLC, owners of certain property located in Polk County, Georgia, (hereinafter referred to as "Owners" and/or "Developers")

WITNESSETH THAT:

WHEREAS, the Owners are developing a certain subdivision known as Cherokee Estates Subdivision located in Land Lots 1252, 1253, 1268, and 1269 of the Third District, Fourth Section of Polk County, Georgia; and

WHEREAS, these Restrictive Covenants shall apply to all of the lots shown on the plat of said Subdivision made by West GA Surveyors, Inc., dated Sept 30, 2002, and recorded in Plat Book X Page 168, in the Office of the Clerk of the Superior Court of Polk County, Georgia, reference to which plat is hereby made for a full and complete description of said property; and

WHEREAS, it is to the interest, benefit and advantage of the Developers, as owners, and to each and every party who shall hereafter purchase any lot in said Subdivision that certain Restrictive Covenants 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 the benefits to be derived by Owners/Developers and each and every subsequent owner of the lots in said Subdivision, the said Owners/Developers do hereby establish, promulgate and declare the following Restrictive Covenants to apply to all said lots above referred to, and to all persons owning any of said lots, as follows:

1. Said Covenants, conditions and restrictions shall be Covenants running with the land for a period of fifty (50) years or longer (if allowed by applicable law), from January 1, 2002. Upon each lot conveyance, the time shall commence upon the transfer of title to any subdivision lot, if after January 1, 2002.

2. Each lot shall be restricted to single-family, related residential use only and no commercial business, enterprise, or home retail business (such as beauty parlors, antique shops, etc.) shall be operated or conducted thereon. In connection with any "business enterprise", for purposes of the agreement, no owner or occupant of any lot shall have the right to conduct any business from a dwelling house constructed on any lot, where said business activity results in persons coming to the resident's dwelling to review documents, consult with the resident's for business purposes, or otherwise conduct ongoing business activities. (Mere incidental business matters are not included in a "business enterprise"). No lot owner shall use his home address as a "business address", nor allow parties to come to his home for purposes of conducting the owner's general business activities upon the property.

3. No dwelling shall be built or constructed on any lot in said Subdivision nearer than seventy-five (75) feet from the right of way of the street which said dwelling faces (not withstanding any set back lines shown on the aforementioned plat); nor nearer than thirty (30) feet from any side street line or lot line, nor closer than thirty-five (35) feet from the rear lot line. If, because of unusual

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topography or the peculiar shape of any lot in said subdivision and particularly in the case of corner lots, it becomes impracticable to conform to the above set back lines, then the developer and/or Homeowner's Association may grant a variance of set back requirements based upon topography, in their sole and absolute discretion. In connection with the construction on any lot, care shall be taken to preserve the natural beauty of the hardwoods on the lot, especially along lot lines and at the edge of the street, as may have been preserved by the developers in the construction of the subdivision.

4. No dwelling shall be erected or placed on any building lot having less front footage than is shown on the plat of the Subdivision hereinabove referred to. This restriction shall not prevent the lots from being re-subdivided into larger building lots than those shown on said plat but only one dwelling shall be built on each lot, and no re-division into smaller lots shall be permitted. A dwelling may be constructed on more than one lot.

5. No residence shall be constructed on said lot having less than one thousand eight hundred square feet of heated floor space, exclusive of garages, porches, and terraces.

6. No mobile home, living trailer, camper or the like shall be permitted on any lots of said Subdivision.

7. No dwelling shall be erected or placed on any lot in said Subdivision without complying with all Building Code and Subdivision Regulations of the Polk County, Georgia.

8. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat; or as hereafter reserved on any future recorded plat of the Subdivision or later development.

9. No livestock, chickens or other fowl, or animals shall be raised, kept or otherwise maintained on any lot, with the exception of household pets (cats, dogs or indoor animals only) which must be kept under restraint and not allowed to wander about at will.

10. All sewerage and/or domestic water drainage shall drain into a sanitary system approved by the State Health Authorities, or other regulatory authorities.

11. No lot owner shall allow any unsightly garbage, trash, debris, dirt, wood, construction waste or debris which remains after house completion, or household waste on any lot, but shall sack, box or otherwise dispose of the same in a safe and sanitary manner. In the event that any owner of any property in the Subdivision shall fail or refuse to keep such premises free from refuse or garbage piles or other unsightly objects, then the Developer or the designated official of the Polk County may enter upon such property and remove the same at the expense of the owner, and such entry shall not be deemed a trespass. In the event of such removal, a lien shall arise and be created in favor of the Developer or the Polk County against such lot for the full amount chargeable to such lot. The lien amount shall be due and payable within thirty (30) days after the owner is billed therefore.

12. No lot owner shall allow any junk cars, or trucks to be or remain on any lot. Further, no lot owner shall allow any equipment, trucks, or other vehicles used in any business, farm, commercial or similar operations to remain parked either in the driveway of a lot owner's dwelling; or on the street adjacent thereto, except on a temporary basis. In no event shall any owner have any commercial vehicle, truck, or equipment, trailer or similar personal property constantly being located at or near the dwelling and/or lot of the subdivision.

13. All recreational vehicles, boats, travel trailers, or similar such vehicles must be parked at the rear of any dwelling house. No chain link fences, posts, plastic fencing or other fencing shall be constructed in the front of any dwelling house. All such fencing must start at the

rear of the dwelling, unless approved by the Developer or Homeowner's Association for any type of decorative fencing in the front of the property, adjacent to a front home entrance.

14. When any lot owner shall commence construction of a dwelling, the outside of said dwelling shall be finished within one (1) year after the date construction is started.

15. It shall be the responsibility of each owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such owner's lot. No property within the Subdivision shall be used, in whole or 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 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 within the Subdivision, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Subdivision. There shall not be maintained any plants, animals, cars, trailers, apparatus 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 the Subdivision. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

16. No garage shall be constructed except as an integral part of the residence it is intended to serve, and no garage shall be open facing a street on the front of the house so it may be readily viewed from the front street. In the event any lot owner desires to have a freestanding garage, the garage shall not face the street and the construction of a "freestanding" garage shall be subject to the approval, within the uncontrolled discretion, of the Developer and/or Homeowner's Association.

17. No shed, tool storage area, workshop, garage, outbuilding for storage of yard implements, clotheslines or drying yards shall be placed upon the property unless concealed by hedges, lattice work or screening acceptable to the Developer or Homeowner's Association of the subdivision.

18. No concrete blocks shall be left exposed on any home, building, or on any area of the property. All homes shall be brick, wood, heartyboard, stucco or vinyl or similar products in design, provided that no home shall be constructed exclusively of vinyl. Any deviation from a standard design within the subdivision of brick and wood (such as stucco or other similar materials) shall not occur except by approval of the Developer and/or Homeowner's Association.

19. No trucks or commercial vehicles shall be stored or parked on any lot except while engaged in transporting to or from a residence in the Subdivision.

20. The elevation of a lot shall not be changed so as to materially affect the surface elevation or grade of the surrounding lots. No rocks, gravel or clay, shall be excavated or removed from any property except in connection with building the dwelling on said lot and/or landscaping same.

21. No signs or other advertising shall be displayed on any lot except for the purpose of the sale of the lot unless first approved in writing by the Developer or his designated official.

22. Any conveyance of property is made subject to taxes and other assessments, if any, levied or assessed against the property in the year in which it is conveyed, subject to all restrictions and limitations imposed by governmental authorities and these covenants.

23. All claims for damages, if any, arising out of the construction maintenance and repair of utilities or on account of temporary or other inconvenience caused by the Developer, or any utility company or municipality, or any of its agents or servants are hereby waived by the owners of such lots; except any negligent acts, errors or omissions for which a claim of damages could arise due to destruction or any partial destruction, or defacing of any lot or any works of improvement upon any said lots.

24. Should the owner fail, neglect, or refuse to satisfy and discharge any lien arising hereunder or to cure any violation of these covenants after written notice thereof, within thirty (30) days; the Developer, Homeowner's Association, its successors and assigns, shall have the right to interest on such liens at a rate of 12% per annum and shall be entitled to receive all costs of collection, litigation or other such claim including reasonable attorney's fees. In addition, the Developer and/or Homeowner's Association shall have a continuing right to specific performance of all rights, duties and obligations contained in these restricted covenants.

25. For the purpose of further insuring the development of land so platted as an area of high standards within the subdivision, the Developer reserves the right to review all plans and specifications of any proposed dwelling upon the property to insure that it complies with the terms and provisions of these Restrictive Covenants. Further, by acceptance of title to this property, an owner covenants and agrees that no building, wall or other structure shall be commenced upon any lot unless and until the plans and specifications for the construction of any improvements on a lot have been submitted for review and approval in writing by the Developer, and/or subdivision lot owners. In reserving the right of the Developer in this manner, the Developer does not assume any risk nor responsibility for the construction or design of any particular improvements on the property, but simply the right of approval or rejection of the plans and specifications based upon any ground, including purely aesthetic grounds which, in the sole and uncontrolled discretion of the Developer. No material alteration to the exterior appearance of the buildings or structures, as shown on the plans, shall be made without like approval. The Developer shall not be liable to any damages to any lot owner, property owner, or user of said subdivision because of the provisions in this paragraph or any other paragraph wherein the Developer has some discretion concerning a particular provision.

26. All homes must have landscaped within six (6) months of completion of the dwelling house.

27. There are to be no vegetable gardens planted that are visible from the street.

28. A property owners association may be formed when thirty-three (33%) percent of the lots have been sold within the Subdivision, by and subject to approval of a majority of the existing number of homeowners at that time. This shall be a non-profit association of the persons living within said subdivision, who shall establish annual maintenance fees to be used by the association to maintain the entrance, common areas of the subdivision, right of ways, and to landscape or otherwise prune shrubbery, plants or other foliage within the subdivision to maintain its aesthetic beauty. All owners of any lots are automatic members of the Association and shall be subject to payments of dues or other assessments established by the Association. Further, the Developers have the right (either before or after thirty-three (33%) percent of the lots are sold), to request the approval of a majority of the existing homeowners within the subdivision, of all plans for the design, construction and/or general appearance of homes within the subdivision which are proposed to be built upon any lot pursuant to the Architectural Covenants of paragraph twenty-five (25). Any lot owner agrees by purchasing a lot to submit to the jurisdiction and venue of the

Superior Court of Polk County, Georgia for any actions involving enforcement, injunctive relief, damages or other claims which might arise by virtue of these Covenants and their enforcement, either by the Developer and/or lot owners.

29. The Homeowner's Association shall maintain the common areas of the subdivision such as retention ponds, gates, entrances, sidewalks or any other permanent structures which may have been placed within the subdivision by the developers or which may hereafter be placed within the subdivision by the Homeowner's Association. Any such maintenance, and/or aesthetic structures are dedicated for public purposes and public uses. The Homeowner's association shall have the right to assess funds to pay all costs associated with landscaping, maintenance or refurbishment of any drainage areas, retention ponds, retention structures, common areas, entrance walls, or other permanent structures which shall inure to the benefit of, and may be maintained by, the Homeowner's Association. Further, the Association shall have the right to levy reasonable charges for the maintenance or construction of common works of improvement.

30. The Developer reserves the right to change, alter or amend drainage structures or drainage easements on property lines, or access the rear of any lot, as may be necessary to drain or remove water from any lot.

31. For any violation or breach of any of these restrictions and reservations by any person, firm or corporation claiming by, through or under the Developer, or by virtue of any judicial proceedings, the Developer, and the lot owners, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them. In addition to the foregoing right, the Developer shall have the right, whenever there shall have been built on any lot any structure which is in violation of these restrictions, to enter upon the property where such violation of these reservations and restrictions exist and summarily abate or remove the same at the expense of the owner, and any such entry and abatement or removal shall not be deemed a trespass. The failure to promptly enforce any of these reservations and restrictions by any Court of competent jurisdiction shall in no wise affect any of the other reservations, but they shall remain in full force and effect.

32. These restrictions shall be construed as covenants running with the land for the mutual benefit of all lot owners in said tract and shall have such force and effect as allowed by the Laws of Georgia, and any violation of these restrictions may be abated or corrected by the Developer, Homeowner's Association, any lot owner, or owners, by injunction or other legal or equitable means.

33. Invalidation of any one of these covenants by judgement or court order shall in no wise effect any of the other provisions which shall remain in full force and effect.

34. (a) This Declaration may be amended unilaterally at any time and from time to time by the Developer if: such amendment is necessary to bring this Declaration or any provision hereof into compliance with any applicable judicial determination or governmental statute, rule, regulation, or requirement, including, for example, without limitation, any requirements, of the U.S. Army Corps of Engineers; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots 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 Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans

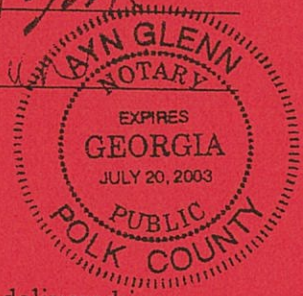
MILLER MOUNTAIN DEVELOPMENT GROUP LLC

BY: [Signature]

ATTEST: \_\_\_\_\_

Signed, sealed and delivered in the presence of:

[Signature]  
[Signature]



Signed, sealed and delivered in the presence of:

[Signature]  
[Signature]



[Signature]  
STRICKLAND HOLLOWAY, JR.

Given, Polk County  
Filed in Office this 9 day of June  
2003 at 3:30 Recorded in Dead  
Book 941 Page 497 This 9  
City of apine, 2003  
Sandra Walls, Clerk

on Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any owner's lot unless any such lot owner shall consent thereto in writing. Further, Developer has the right unilaterally to subject additional property of Developer to this Declaration. Therefore, the Developer may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any lot owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected lot owner.

(b) In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the owners of at least two-thirds (2/3) of the Lots (other than Lots of Developer so long as the consent of Developer is required) and the consent of Developer (so long as Developer owns any property for development and/or sale in the Subdivision or has the right unilaterally to annex additional property to the Subdivision). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. No provision of this Declaration which reserves or grants special rights to Developer shall be amended without Developer prior written approval so long as Developer owns any property for development and/or sale in the Subdivision, or subject to annexation to the Subdivision.

(c) Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in the Superior Court of Polk County, Georgia within one (1) year of the date of recordation of such amendment in the Polk County, Georgia land records.

35. The consideration of and for these restrictions shall be the benefits flowing to any lot owner, and the taking and recording of a deed of conveyance evidences an agreement hereto. These Covenants shall be binding upon any lot owner, regardless of their recordation upon the deed records of Polk County. Further, they shall be binding on any and all parties who may acquire any rights, title, or ownership interest in and to any portion of any of the lots subdivided by the Developer.

IN WITNESS WHEREOF, Owners/Developers has caused its duly authorized officers to execute this instrument the day and year first above written.

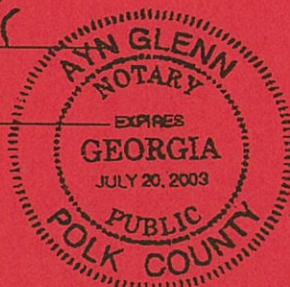
CHEROKEE HOUSING GROUP LLC

BY:

ATTEST:

Signed, sealed and delivered in the presence of:

*Michael Hyatt*  
*Raymond Allen*



Georgia, Polk County  
Filed in Office this 9 day of June  
2003 at 3:30 Recorded in Deed  
Book 941 Page 497 This 9  
day of June, 2003  
Sheila Walls, Clerk

\*SIGNATURES CONTINUED ON FOLLOWING PAGE\*