

STATE OF ALABAMA:  
HOUSTON COUNTY:

BOOK 077 PAGE 173

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
OF  
THIRD ADDITION TO OVERLOOK AT THE WOODLANDS - PHASE I  
A PLANNED UNIT DEVELOPMENT**

This Declaration is made and entered into this 7th day of May, 1985, by GARDEN PROPERTIES, a Partnership, hereinafter referred to as the "Declarant," for itself, and for its successors, grantees and assigns.

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the City of Dothan, Houston County, Alabama, which is more particularly described as:

All of the property embraced in the Plat of THIRD ADDITION TO OVERLOOK AT THE WOODLANDS - PHASE I, a Planned Unit Development in the City of Dothan, Houston County, Alabama, recorded in Plat Book 7, Page 98, in the Office of the Judge of Probate of Houston County, Alabama, and being subject to sewer, utility and drainage easements as described in said Plat.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and

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desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

Section 1: "Association" shall mean and refer to THE WOODLANDS TOWNE HOMES OWNERS ASSOCIATION, its successors and assigns.

Section 2: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Unit which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3: "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4: "Common Elements" shall mean and refer to all portions of the property not encompassed and included in each Unit as herein defined, and the Common Elements are those that are shown, marked, and identified as such on the plat. These Common Elements include the land on which the Common Elements are shown and are to be used as parking areas, walks, lawns, trees, and shrubs as shown on the plat or as prescribed by the By-Laws. All other parts of the property outside of each Unit, as defined herein, necessary or convenient to its existence, maintenance and safety, or normally in common use, are part of the Common Elements.

Section 5: "Unit" shall mean and refer to any individual plot of land shown upon any recorded plat of the Properties together with all improvements situated thereon, with the exception of the Common Elements.

Section 6: "Declarant" shall mean and refer to GARDEN PROPERTIES, a Partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped unit from the Declarant for the purpose of development.

ARTICLE II: PROPERTY RIGHTS

Section 1: Owners' Easements of Enjoyment. Every owner shall have a right and enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Unit subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Elements;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Unit 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 or any part of the Common Elements 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 dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners of Units, including all annexations to the Properties, with the exception of the Declarant and shall be entitled to one (1) vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Unit.

Class B. Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) On December 31, 1993.

ARTICLE IV: COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Unit owned within the Properties, hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual

and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Elements, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be Thirty Six Dollars (\$36.00) per Unit.

(a) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members of who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Units and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of the Common Elements. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix

the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Unit have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Unit.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

**ARTICLE V: ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind,

shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography of the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

**ARTICLE VI: PARTY WALLS**

Section 1: General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Units shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of Alabama law regarding party walls and liability for property damage due to negligent or wilful acts or omissions shall apply thereto.

Section 2: Use of Party Walls. The owners of each Unit, their heirs, successors and assigns, shall have the right to use each party wall jointly with the owners of contiguous Units joined by a party wall, their heirs, successors and assigns.

Section 3: Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a party wall shall be shared by owners who have the right to the use of said wall in equal proportion to their right of use.

Section 4: Damage or Destruction to Party Walls. Should a party wall at any time be damaged or destroyed by fire or other casualty while both adjoining owners have a right to use as aforesaid, the same shall be repaired or rebuilt at their joint



and equal expense; provided, that this is without prejudice to the right of any such owner to call a larger contribution from the other under any rule of law regarding liability for negligent or wilful acts or omissions, and without prejudice to the claim of any owner or party in interest for payment under any insurance policy.

Section 5: Weatherproofing. Notwithstanding any other provision of this Declaration, any owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of restoring the wall to furnish necessary protection against such elements.

Section 6: Right to Contribution Runs with Land. The right of any owner to contribution from any other owner for the repair or rebuilding of a party wall shall run with and be appurtenant to the land, and cannot be terminated in any manner except by the joint agreement of the fee simple owners of both lots joined by a party wall.

**ARTICLE VII: EASEMENTS, COVENANTS AND RESTRICTIONS**

Section 1: Use of Property. Each Owner shall be entitled to the exclusive ownership and possession of his Unit and may use the Common Elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of other Owners.

Section 2: Utility Easements. There shall be appurtenant to each Unit a non-exclusive easement for use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving such Unit and situated in any other Unit. Each Unit shall be subject to an easement in favor of other Units for use of all pipes, wires, cables, conduits, utility lines, flues and ducts situated in such Unit and serving such other Units.

Section 3: Encroachments. If any portion of the Common Elements now encroaches upon any Unit, or if any such encroachment shall occur hereafter as a result of (i) settling of a Unit or Units; (ii) repair, alteration or reconstruction of the Common Elements made by or with the consent of the Association; (iii) repair or reconstruction of a Unit or Units following damage by fire or other casualty; or (iv) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and of the maintenance of the same.

Section 4: Right of Access. The Association shall have the irrevocable right, to be exercised by the Manager or the Board of Directors, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit.

Section 5: Maintenance of Common Elements. The necessary work of maintenance, repair and replacements of the Common Elements and the making of any additions or improvements thereto shall be carried out as provided in this Declaration and the By-Laws.

Section 6: Prohibited Work. No Unit Owner shall contract for or perform any maintenance, repair, replacement, removal or alteration of the Common Elements or any addition thereto except the Association or its Officers. No Unit Owner shall take or cause to be taken any action within his Unit which would jeopardize the soundness or safeness of any part of the property or impair any easement or right of any easement Owner or affect the Common Elements without the unanimous consent of all the Owners who are affected thereby.

ARTICLE VIII: GENERAL PROVISIONS BOOK 077 PAGE 183

Section 1: Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3: Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Unit Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Unit Owners.

Section 4: Recording. No amendment to this Declaration shall be effective unless and until duly recorded in the Office of the Judge of Probate of Houston County, Alabama.

Section 5: Annexation. All or part of the following described real property may be annexed to the properties as Units and/or Common Elements by the Declarant without the consent of the members of the Association within ten (10) years of the date of this instrument:

A parcel of land in the City of Dothan, Houston County, Alabama, and being more particularly described as follows: Beginning at a point on the west side of John

D. Odom Road and the center of a 100 foot Alabama Power Co. right of way and thence N21°51'59"E along the west side of John D. Odom road 1125.17 feet, thence N68°01'01"W 229.81 feet, thence S35°24'00"W 102.81 feet, thence S80°48'00"W 731.25 feet, thence S21°51'59"W 451.24 feet to the center of said right of way, thence S55°30'31"E 901.80 feet to the point of beginning. Said parcel being in the W½ of the SE¼ of Section 5, T3N, R26E, and containing 16.57 acres more or less.

Other residential property and Common Elements may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 7th day of May, 1985.

GARDEN PROPERTIES, a Partnership

By: Edna F. Bragg  
Edna F. Bragg - General Partner

By: Edna F. Bragg  
Edna F. Bragg, as Executive of  
of the Estate of J. B. Bragg,  
General Partner

STATE OF ALABAMA:

HOUSTON COUNTY:

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I, the undersigned authority in and for said county and state, hereby certify that EDNA F. BRAGG, whose name as General Partner of Garden Properties, a Partnership, and as Executrix of the Estate of J. B. Bragg, General Partner, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Declaration, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this, the 7th day of May, 1985.



*H. M. Clevenson*  
Notary Public

My Commission Expires: 4-5-87

*pet*

This instrument prepared by:  
Charles H. McDougle, Jr., Attorney at Law  
P. O. Box 1464, Dothan, Alabama 36302

*3250*

Filed this 8 day of May 1985 at 8:14 A.M. M. \$ \_\_\_\_\_ Mtg. Tax. \$ \_\_\_\_\_  
Doc. Tax Paid/Recorder me Book 77 Page 173  
R. J. Stombridge Judge of Probate No. 9541  
HOUSTON COUNTY, ALABAMA

FILED-STATE OF ALA.  
HOUSTON COUNTY  
R. J. STENBRIDGE  
JUDGE OF PROBATE  
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STATE OF ALABAMA  
HOUSTON COUNTY

AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF THIRD ADDITION TO OVERLOOK AT THE WOODLANDS- PHASE I  
A PLANNED UNIT DEVELOPMENT

In accordance with Article VIII, Section 3 of the Declaration of Covenants, Conditions and Restrictions of Third Addition to Overlook at the Woodlands - Phase I (the "Declaration"), as found recorded in the Office of the Judge of Probate of Houston County, Alabama, in Miscellaneous Book 77, Page 173, as previously amended, the undersigned, constituting at least ninety (90) percent of the unit owners, including all units annexed thereto, do hereby amend the Declaration as follows:

AMENDMENT 3

Article V of the Declaration is amended to add the following:

The exterior colors of each unit shall be of a neutral earth tone color (such as, but not limited to, beige, white or gray) in harmony with the other units.

IN WITNESS WHEREOF, the undersigned have executed these

Amendments to the Articles of Incorporation this 12<sup>th</sup> day of July, 2001.

Karen M. Lee  
Witness

Jaye Dusette  
Unit Owner  
Unit Address: 102 N. Idlewild  
Dothan, AL 36303

Karen M. Lee  
Witness

Lee Gross  
Betty Gross  
Unit Owner  
Unit Address: 117 N. Idlewild PATH  
Dothan, AL 36303

Karen M. Lee  
Witness

Sharon Brown  
Unit Owner  
Unit Address: 121 N. Idlewild PATH  
Dothan, AL 36303

Karen M. Lee  
Witness

Forrest Chambliss  
J. Chamberlain  
Unit Owner  
Unit Address: 120 N. Idlewild PATH  
Dothan, AL 36303

Karen M. Lee  
Witness

W. C. Stringfellow  
Unit Owner  
Unit Address: 125 N. Idlewild PATH  
Dothan, AL 36303

AMENDMENT TO

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF THIRD ADDITION TO OVERLOOK AT THE WOODLANDS - PHASE I

In accordance with Article VIII, Section 3 of the Declaration of Covenants, Conditions and Restrictions of Third Addition to Overlook at the Woodlands - Phase I (the "Declaration"), as found recorded in the Office of the Judge of Probate of Houston County, Alabama, in Miscellaneous Book 77, Page 173, as previously amended, the undersigned constituting at least seventy - five (75) percent of the unit owners, including all units annexed thereto, do hereby amend the Declaration as follows:

Amendment 4

Article IV, Section 3 of the Declaration is amended to add the following:

The Board of Directors of Woodlands Towne Home Owners' Association shall increase the annual dues to \$100.00 per unit beginning 2010 and may at its discretion, when necessary, adopts additional increases of up to five percent (5%) thereafter. From and after 2010 the annual dues may be increased above five percent (5%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

IN WITNESS WHERE OF, the undersigned have executed this Amendment to the Articles of Incorporation this 26<sup>th</sup> day of May, 2010.

Jeanne Stringfellow Shady R. Christian  
Witness Unit Owner  
Unit Address: 203 So. Idlewild Path

Jeanne Stringfellow W.C. Stringfellow  
Witness Unit Owner  
Unit Address: 125 N. Idlewild Path

Jeanne Stringfellow Jane A. Linton  
Witness Unit Owner  
Unit Address: 207 S. Idlewild Path

Jeanne Stringfellow Joe D. Bazz  
Witness Unit Owner  
Unit Address: 212 S. Idlewild Path

Jeanne Stringfellow Sam P. Brown  
Witness Unit Owner  
Unit Address: 121 N. Idlewild Path