

STATE OF ALABAMA

JEFFERSON COUNTY

DECLARATION OF EASEMENTS AND PROTECTIVE COVENANTS

This Declaration of Easements and Restrictive Covenants is made and entered into on this the Ninth Day of December, 2003, by Highland Crest Homeowners Association, represented by the Highland Crest Homeowners Board and Architectural Committee, hereinafter referred to as "Declarant". This Declaration of Easements and Restrictive Covenants supersedes those previously filed in 1988 by Highland Crest, Ltd., an Alabama Limited Partnership and those subsequently amended in 1995 by the Highland Crest Homeowners Association.

WITNESSETH

Whereas, Declarant represents all owners of property described as Sectors I and III according to the Map and Survey of Highland Crest, recorded in the Map Book in the Office of the Judge of Probate of Jefferson County, Alabama (the "Property"); and

Whereas, Declarant desires to subject the property and each lot therein to the conditions, limitations and restrictions hereinafter set forth.

Now, therefore, Declarant hereby covenants and declares that the Property shall henceforth be subject to the following easements, protective covenants, conditions, limitations, and restrictions as follows:

I. ARCHITECTURAL CONTROL COMMITTEE AND PLAN APPROVAL

A. Formation of Architectural Control Committee and Relinquishment of Control.

Previously the Architectural Control Committee was composed of John B. Davis, Jr., Steven L. Davis, and K. B. Weygand. Upon (i) development of at least seventy-five per cent (75%) of the lots in Sectors I and III by the construction thereon of single-family residential dwellings and (ii) occupancy of said dwellings by their owners or tenants of the owners, the then record owners of a majority of the lots (in the form of the Highland Crest Homeowners Association) shall have the power, through a duly recorded written instrument (this document) , to change the membership of the previous committee (John B. Davis, Jr., Steven L. Davis, and K. B. Weygand) . Hereafter, the Architectural Control Committee (the "Committee") will be composed of current Highland Crest Homeowners Association members. The Committee shall be appointed by the President of the Board of Directors, in accordance with Article VI of the By-laws set forth in the Articles of Incorporation of Highland Crest Homeowners Association. Committee members shall not be entitled to any compensation for services performed pursuant to these Covenants.

B. Submission of Plans Prior to Beginning of Construction. All plans and specifications for any structure to be erected on or to be moved upon or to any lot, or for any improvement whatsoever to any lot or exterior of any structure, shall be submitted to the Committee for its approval before any work is commenced. Examples include, but are not limited to external additions, external remodeling, color changes, and major visible landscaping projects. (Any remodeling, alterations or additions to the interior of an existing dwelling shall not require written approval of the Committee; however, all such work must comply with applicable restrictions and covenants.) The plans and specifications submitted to the Committee shall show the proposed location on the property, the nature of the exterior construction material, and the roof design and materials. Construction may not be started before receipt of a Letter of Approval from the Committee, a copy of which must be signed by the Builder, or Owner, and returned to the Committee for retention.

C. Content of Plans. One set of prints of the drawings and specifications (both together referred to as "Plans") for each house or other structure proposed to be constructed on each lot shall be submitted. The Plans submitted to the Committee may be retained by the Committee. Plans should be delivered to the chairperson of the Architectural Control Committee or President of the Homeowners' Association (or any other designee by the Board) at least ten (10) days prior to the beginning of construction.

All plans must include the following:

- (1) An accurately drawn and dimensional plot plan showing all building set-backs, easements, drives and walks.
- (2) Foundation plan, floor plan, exterior elevations of building above finished grade as they will actually appear after back filling and landscaping is complete. (The back filling sketch may be drawn by a builder.)
- (3) All plans must include summary specifications or a list of proposed materials and exterior color selections. Samples of exterior material which cannot be adequately described on the plans or materials with which the Committee is unfamiliar must be submitted with the plans.
- (4) Only upon the submission of all reasonably requested plans in the manner set forth above shall the Committee be deemed to have received the plans for the purposes of Section D hereof.

D. Approval Implied if Committee Does Not Respond. The Committee's approval or disapproval as required in these Covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove Plans within ten (10) business days after the receipt by the Committee, then such Plans shall be deemed to have been approved by the Committee. The ten (10) days will not begin until after specific notification of receipt of plans has been made to the owner or builder.

E. Non-Liability of Committee and Its Members. Neither the Committee nor Declarant shall be responsible to check for any defects or deficiencies in any Plans submitted in accordance with the foregoing provisions; nor shall either have responsibility for any structural or other defects in any work done using or purporting to use such plans. Notice is hereby given that no approval by the Committee shall be deemed a warranty by the Committee of the structural integrity or soundness of any structure to be erected using plans or specifications submitted to the Committee; and that no such approval may be relied upon in any fashion except as constituting evidence of compliance with the requirements of these Covenants.

F. Powers and Standards of Approval. The Committee shall have the right to approve or disapprove each proposed improvement or alteration to any portion of the Property on a case by case basis. The approval by the Committee for improvements or alterations proposed for one portion of the Property shall not bind or require the Committee to approve a proposed improvement or alteration according to the same Plans for any other portion of the Property. The Committee shall have the right to apply and impose such standards as it deems appropriate.

G. Right to Retain Architect or Engineer. The Committee may obtain the services of an architect or engineer to review Plans; however, it shall not be required to do so.

H. Reconstruction After Destruction. In the event of the destruction of any improvement to or of any portion of the Property, all restoration and repairs shall be in accordance with the design, materials, color and general plans and specifications previously approved by the Committee. Owners shall have a duty to commence and complete restoration as quickly as is reasonably practical; provided however, that all such restoration shall be completed within 12 months from the date of the damage or destruction.

I. No Waiver. The failure of the Committee to enforce any one or more of the provisions of this instrument shall not be deemed a waiver of the right of the Committee to enforce the provisions of this instrument at any subsequent time. No owner, nor any other person, corporation, partnership, firm or other entity shall be entitled to any remedy against or to the recovery of any damages from the Committee or any member thereof as the result of the failure or refusal by the Committee or any member thereof to enforce any of the provisions of this instrument or pursue the correction of any violation thereof.

J. Binding Effect and Term. The covenants and conditions herein contained are to run with the Property and shall be binding on all parties and persons claiming under them for a period of fifty (50) years from the date of the recordation of this instrument, after which time these covenants and conditions shall be automatically extended for successive periods of ten (10) years until owners of a majority of the lots have caused an instrument changing the covenants and conditions herein to be executed and recorded.

K. Severability. Invalidation of any one or more of the provisions of this instrument by a judgment or a court order shall in no way affect the validity of the other provisions of this instrument, which shall remain in full force and effect.

L. Communication. Any request or question concerning these Covenants should be directed to a Board member, who will forward the information on to the appropriate Architectural Review committee member for response.

II. RESTRICTIONS AS TO USE.

A. Use of Property Restricted To Single Family. All lots shall be known and described as residential lots and shall be used for single-family residential purposes exclusively.

B. One Family Only. No more than one family unit shall occupy any dwelling unit.

C. No Occupancy of Temporary Structures. No structure of a temporary character, or trailer, tent or shack shall be used at anytime as a residence, either temporarily or permanently. There shall be no occupancy of any dwelling until the interior and exterior of the dwelling are complete and a certificate of occupancy has been issued.

D. No Further Subdivision. No lot shall be further subdivided.

III. CONSTRUCTION STANDARDS AND LIMITATIONS.

A. Setback Requirements. No building shall be located on any lot nearer to the front line, or nearer to a side street, than the minimum building setback lines shown on the recorded plat. No building shall be located nearer than 35 feet to any side street line. No building shall be located nearer than 10 feet to an interior lot line. No building shall be located on any interior lot nearer than 50 feet to the rear lot line. For the purpose of this covenant, eaves, steps and open decks and terraces shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of any structure to encroach upon another lot.

B. Minimum Square Footage. Every house constructed shall meet the following size requirements: The main structure of the residential building, exclusive of open porches, garages and basements, shall contain a minimum of 2,200 square feet of finished and heated living area; a 1-1/2 story building shall have a minimum of 2,400 square feet; and a 2-story building shall have a minimum of 2,500 square feet.

C. Maximum Height of House. No house which exceeds two stories or 35 feet in height may be constructed on any lot. (This provision excludes dormer windows above two full stories.)

D. Exterior Siding Materials. Exterior siding materials may include brick, stone, smooth surface stucco, hardy board or masonite siding. Vinyl siding may be used only with permission from the architectural committee. In each case a sample of the material to be used should be submitted to the architectural committee for written approval.

Exterior paint and other siding materials must be natural tones not to include pure red, pink, purple or other colors deemed inappropriate by the architectural committee. No vertical siding shall be used for any construction. No black mortar shall be used for any construction.

E. Windows. All windows shall be vinyl clad, aluminum clad, composite material or wood. They shall contain the following characteristics: two inch brick mould, sloping sill and a checkrail (strip between the upper and lower windows) of a minimum 1 ¼ inches. All windows shall be encased.

F. Roofing. Roofing shingles must be of a natural color and traditional shape. White and green roofing of any type material is not allowed. Metal standing seam roofing is not allowed. Other metal roofing must conform to the above mentioned shape and color requirements. Metallic roofing may be used in specific specialized areas but require the written approval of the architectural committee. All roofing materials other than conventional asphalt shingles require architectural committee approval.

All stack pipes, exhaust fans and other roof projections shall be located on the rear or inside side of building roofs, and painted to match the color of its' roof.

G. Garage Doors. Garage doors shall not be permitted on the fronts of houses except with approval of the Architectural Control Committee.

H. Placement of Air Conditioning Units. Outside air conditioning units may not be located in front yards. If located in side yards, sufficient effort must be made to effectively camouflage the units with shrubbery, brick walls, etc.

I. Mailboxes. Mailboxes are to be constructed of brick or decorative wrought iron. If wrought iron, then the post of the mailbox should be a minimum of 4 inches in diameter. The design should be of a traditional style similar to those of the rest of the neighborhood. It must also conform to the U. S. Postal mailbox height and size requirements (36-48" in height, 18" from the street). The color of the mailbox must be of a complementary color or the same color as the house.

J. Fencing. Any fencing shall be constructed of wood, brick, wrought iron, aluminum or some combination of the aforementioned materials. Chain link fencing is not allowed. The architectural committee shall have the right to approve the location and design, as well as the combination of materials used in the construction of all fences. No fencing shall be allowed in the front yard. The side yard of a corner lot is considered to be a second front yard. No fence or wall may be installed on the side or rear of the property that exceeds six foot six inches (6'6") in height. No fence or wall shall extend nearer the street than the front line of the home except that owners may, with the approval of the architectural committee, build a brick entrance on either side of the lot driveways. Drawings and specifications of these type structures must be furnished and separately approved by the committee. Any fence erected facing a thoroughfare must be constructed with the front side positioned towards the street, subject to architectural committee approval. It is assumed that all pools will be

within fenced areas, according to the Hoover city ordinance. Trampolines should also be inside a locked fenced enclosure.

K. Finished Parking Areas. Front drives are permitted; however, the interiors of all covered parking areas visible from the street shall be finished and painted.

L. Yards to Be Sodded. All front and side yards shall be landscaped with solid sod. Back yards should be either seeded, sodded, landscaped, or maintained as a “controlled” natural area.

M. Landscaping . Landscaping should not impede sight at street intersections and corners. No shrubs or trees which will impede the view or sight of pedestrians or operators of automobiles shall be allowed on or near street corners.

N. Front Steps and Stoop. Front steps and stoop floors shall be constructed of brick, stone or ceramic tile.

O. Out Buildings. No out buildings for storage purposes are allowed.

P. Underground Utilities. Utility services shall be underground. No utility poles or above ground wires shall be permitted in other than the construction phase, except for streetlights.

R. Completion of Construction. Once the construction of any building is begun, work thereon must be pursued diligently and continuously and must be completed within 12 months.

IV. MISCELLANEOUS PROVISIONS

A. Severability of Clauses. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

B. Retention of Right to Declare Additional Restrictions. Declarant retains for itself, only, the right to include in any contract or deed hereafter made additional covenants and restrictions that Declarant deems necessary or desirable, but which are not inconsistent with, and which do not lower, the standards of the covenants and restrictions set forth herein.

C. Covenants Run With Land. The covenants and restrictions herein shall be deemed to be covenants running with the land.

D. Enforceability. If any person shall violate or attempt to violate any of such restrictions or covenants, it shall be lawful for the undersigned, or any person or persons owning any lot in said subdivision to (a) prosecute proceedings at law for the recovery of damages against the

person or persons so violating or attempting to violate any such covenant or restriction, or (b) maintain a proceeding in equity against the person or persons so violating or attempting to violate any such covenant or restriction for the purpose of preventing such violation; provided, however, that the remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law. A covenant violation can be recorded against a property title after written notification is provided to the property owner.

B. Covenants and Restrictions Reciprocal. The covenants and restrictions set forth herein are made for the mutual and reciprocal benefit of each lot within the herein described subdivision and are intended to create (i) mutual, equitable servitudes upon each lot within such subdivision; (ii) reciprocal rights between and among the respective owners and future owners of each lot within such subdivision; and (iii) as respects the property, a privity of contract and estate between Declarant's grantees and such grantee's respective heirs, executors, administrators, successors and assigns.

F. Declarant Not Responsible for Maintaining Sewer. It shall be the responsibility of each lot Owner, and not Declarant, to locate the sewer lateral and stob on the lot and assure that such location will allow gravity flow from the residence to the main sewer line. Maintenance of the sewer system for the Property shall be performed by the City of Hoover and the Declarant shall have no responsibility therefore.

G. Declarant Not Responsible for Acts of Hoover Building Fees. No construction on any lot shall be permitted or commenced until such time as a building permit has been obtained from the City of Hoover, Alabama, and all sewer impact fees and connection costs shall have been paid to Jefferson County Department of Health, by the lot Owner. The Declarant shall have no responsibility for payment of any of the aforesaid fees.

H. Duty of Owner to Keep Lot Clean.

(1). Owner's Responsibility. It shall be the responsibility of each lot and/or homeowner to prevent the lot and all buildings located thereon from appearing unclean or unsightly. No unsightly weeds, underbrush or other growth shall be permitted to grow or remain upon any part of the Property, and no refuse pile or unsightly objects shall be allowed to be placed or to remain upon any part of the Property, whether or not the Property is vacant. It is the Owner's responsibility to remove any unsightly grass clippings from the driveway, walkway and curb areas after mowing has occurred. No clippings should be blown into the street and curb areas, either by a lawnmower or blower device. Shrubbery beds should be neat and free from weeds. Any dead trees should be removed. No grass clippings should be dumped on front or side yards or in view of other properties.

(2) Declarant's Right to Clean Lots. Lien for Cost. Declarant reserves the right (after 10 days' notice to the Owner) to enter upon any lot during normal working hours, whether the lot is vacant, improved, or occupied, for the purpose of mowing, removing, cleaning or cutting underbrush, weeds or other unsightly growth and trash which, in the sole opinion of the Declarant, detracts from the overall beauty and safety of the subdivision. Declarant may charge the Owner the reasonable cost

for such services and shall have a lien in the amount of such cost.

(3) Owners Responsibility for Damage During Construction. During construction of any type, all vehicles, including those delivering supplies, must enter the building lot only on the driveway approved by the Declarant and so as not to unnecessarily damage trees, street paving and curbs. Any damage not repaired by the contractor may be repaired by Declarant (after 10 days' written notice to the Owner) and the cost therefore charged to the Owner, which charge shall constitute a lien upon such lot, enforceable by appropriate proceedings at law or equity. During construction, all builders must keep the homes, garages and building sites clean. All building debris, stumps, trees, etc., must be removed from each building lot by the builder as often as necessary to keep the house and lot attractive.

I. Prohibited Uses and Activities.

(1) Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot; provided, however, that dogs, cats or other household pets may be kept so long as they are not kept, bred or maintained for any commercial purposes.

(2) Nuisances. No noxious, noisy or offensive activity shall be carried on upon any lot; nor shall anything be done thereon which is or may be or become an annoyance or nuisance to a neighboring lot owner.

(3) Storing and Disposal of Garbage and Trash. No trash, garbage or other refuse shall be dumped, stored or accumulated on any lot, even during construction. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers or garbage compactor units. Garbage containers shall be kept in a clean and sanitary condition and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee so as not to be visible at any time from any road or waterway except during refuse collection. All empty garbage or recyclable containers should be removed immediately within 24 hours of pickup, if not before. No dumping of clippings will be allowed on any properties. All clippings should be bagged for regular pickup. No dumping of lawn refuse materials is allowed on other properties, whether a home is constructed on the property or not.

(4) Burning of Trash. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction period. Hoover ordinances maintain that a permit be obtained for such burning during the construction period.

(5) Fences and Sight Obstructions. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway. Trees shall be permitted to remain within such distances of such intersections provided that the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Rocks or concrete blocks should not be placed at the edge of lawns for barrier

purposes.

(6) Limitations on Signs. One (1) on-premise, unlighted real estate “For Sale” sign shall be allowed per residential lot; provided that such sign is located entirely within the property, does not exceed six (6) square feet in copy area, is mounted on a stake at a height not to exceed forty-eight (48) inches to the top of the sign, and is removed within five (5) days after the sale of the property. Off premises “For Sale” signs are prohibited (i.e. entrance signs)

(7) Satellite Dishes. No satellite microwave dishes or television antennas shall be placed on any lot, unless approved in writing by the Committee.

(8) Clothes Lines. No outside clothes lines shall be permitted on any lot.

(9) No Open Parking or Storage of Boats, Trailers, and Other Vehicles. Boats, boat trailers, pickup campers, mini-motor homes, buses, commercial vehicles, motor homes and trailers of every kind must be parked or stored only in an enclosed garage and may not otherwise be parked on any lot, or on the street, or in any open parking area. No inoperable automobiles shall be permitted on any lot, and no automobile repairs shall be conducted on any lot, except for temporary repairs.

(10) No Water Drainage. No water should be purposely diverted to an adjoining lot. Measures should be taken to redirect any water flow.

(11) No Awnings on Front of House. No canvas awnings should be installed on the front of a house.

V. RESERVATION OF EASEMENTS.

A. Right to Grant Utility Easements. Declarant reserves for itself, its successors and assigns, the right to use, dedicate and/or convey to the State of Alabama, Jefferson County, and/or to the appropriate utility company or companies, rights-of-way or easements on, over, across or under the ground to erect, maintain and use utilities, electric and telephone poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public convenience or utilities on, in and over strips of land ten (10) feet in width along the rear property line of each lot and five (5) feet in width along each side line of each lot.

VI. APPEALS OF ARCHITECTURAL CONTROL COMMITTEE DECISIONS.

A. Written Appeals. Written appeals concerning decisions by the Committee will be considered by the Highland Crest Homeowners Association Board of Directors at regular meetings. The appealee may appear before the Board, at his/her discretion, to state their appeal in person. However, all appeals must also be submitted in writing. The Board will notify the appealee of its decision as soon as possible. All decisions of the Board of Directors are final and not subject to appeal.