

April 1, 1997

STATE OF ALABAMA     )  
SHELBY COUNTY         )

**AMENDMENT**

To

**DECLARATION OF EASEMENTS AND RESTRICTIVE COVENANTS**

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, being the owners ("Owners") of a majority of the lots ("Lots") within the First Sector of The Ridge At Meadowbrook, Inc., subdivision ("The Ridge"), as recorded in Map Book 14, Page 41 in the Office of the Judge of Probate of Shelby County, Alabama, do hereby amend and modify the Declaration of Easements and Restrictive Covenants (the "Declaration") recorded in Book 289, Page 700 in said Probate Office by adding the following additional covenants and restrictions.

**1. COMMON ELEMENTS**

The common elements ("Common Elements") consist of all portions of The Ridge not located within the boundaries of a Lot, including without limitation, entranceways, medians and other areas of common use.

(a) Ownership of the Common Elements shall be by the Lot Owners as tenants-in-common. The Common Elements shall remain undivided, and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof. Each Owner and The Ridge At Meadowbrook Property Owners Association (the "Association") may use the Common Elements for the purposes for which they are intended, but no such use shall enter or encroach upon the lawful rights of the other Owners.

**2. ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES**

All Lot Owners, by virtue of their ownership of a Lot within The Ridge, excluding persons holding such interest under a Mortgage, are members of the Association, and, except as otherwise provided herein or in the By-Laws, shall be entitled to vote pursuant to the Declaration, as amended hereby, and in accordance with the By-Laws. Subject to the provisions of the Association Instruments, each Owner shall be entitled to one (1) vote for each Lot in which he or she holds the interest required for membership, which vote shall be appurtenant to such Lot.

**3. ALLOCATION OF LIABILITY FOR COMMON EXPENSES**

Except as otherwise provided herein, each Lot is hereby allocated liability for common expenses ("Common Expenses") apportioned equally among all of the Lots within The Ridge.

(a) Except as provided below, or in the Association Instruments, the amount of all Common Expenses shall be assessed against all of the Lots in accordance with the allocation of liability for Common Expenses described above.

(b) The Board of Directors of the Association (the "Board") shall have the power to assess specially pursuant to this Paragraph, as in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Paragraph shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Paragraph in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Paragraph.

(i) Except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility under the Association Instruments, any Common Expenses benefitting less than all of the Lots or significantly disproportionately benefitting all Lots may be specially assessed equitably among all of the Lots which are benefitted according to the benefit received.

#### 4. ASSOCIATION RIGHT AND RESTRICTIONS

In addition to and not in limitation of all other rights it may have, the Association, acting through its Board, shall the right and authority:

(a) To make and to enforce reasonable rules and regulations governing the Association, including the Lots and Common Elements;

(b) To grant permits, licenses, utility easements, and other easements;

(c) To control, manage, operate, maintain, improve and replace all portions of The Ridge for which the Association is assigned maintenance responsibility under the Declaration, as hereby amended;

(d) To deal with The Ridge in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Declaration, as hereby amended;

(e) To deal with the Owners in dealing with governmental entities; and

(f) To acquire, hold and dispose of tangible and intangible personal property and real property.

#### 5. ASSESSMENTS

(a) Purpose of Assessments. The Association shall have the power to levy

assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of improved Lots within The Ridge as may be more specifically authorized from time to time by the Board. Assessments may be used to compensate officers and directors only if approved by a majority vote of the Association.

(b) **Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Lot, 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: (i) annual assessments or charges; (ii) special assessments, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Amendment to Declaration, including but not limited to reasonable fines imposed in accordance with the terms of this Amendment to Declaration.

All such assessments, together with charges, interest, costs and reasonable attorney's fees actually incurred, and if the Board so elects, rents shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided, the annual assessments shall be paid in one installment due and payable in January for each year. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, the Association's failure to perform its obligations required under this Amendment to Declaration, or inconvenience or discomfort arising from the Association's performance of its duties.

(c) **Delinquent Assessments.** All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(i) If the annual assessment or any part thereof is not paid in full when due or if any other charge is not paid when due, a late charge equal to the greater of ten dollars (\$10.00) or ten percent (10%) of the amount not paid, may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) shall accrue from the due date.

(ii) If part payment of assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order of application:

(e) Capital Budget and Contribution. The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both

(d) Special Assessments. If the annual assessment provides inadequate financial resources for any year, the Board may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment which would cause the average total of special assessments levied in one fiscal year to exceed two hundred dollars (\$200.00) per Lot shall be approved by a majority of the Owners prior to becoming effective.

(iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit against the delinquent Owner to collect all amounts due pursuant to the provisions of the Declaration, as hereby amended, the By-Laws, and Alabama law; however, the Board may not limit ingress or egress to or from the delinquent Owner's Lot.

(iii) If annual assessments, special assessments, fines or other charges or any part thereof due from an Owner are not paid when due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the annual and/or special assessment. If an Owner fails to pay all assessments and related charges currently due within ten (10) days of the date of the notice of delinquency, the Board may then accelerate and declare immediately due all installments of the annual and/or special assessment without any further notice being given to the delinquent Owner.

(4) respectively, to any unpaid late charges, interest, specific assessments (including, but not limited to, fines), and any portion of the annual assessment or special assessments which are the subject matter of suit in the order which they came due.

(3) to any unpaid portion of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due; and

(2) to costs of collection, including reasonable attorney's fees actually incurred by the Association;

(1) respectively, to any unpaid late charges, interest charges, and specific assessments (including, but limited to, fines) which are not the subject matter of suit in the order of their coming due;

to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

(f) **Statement of Account.** Any Owner, Mortgagee, or person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten dollars (\$10.00), as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

(g) **Surplus Funds and Common Profits.** Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board, either be distributed to the Owners or credited to the next assessment chargeable to the Owners in proportion to the liability for the Common Expenses attributable to each Lot, or added to the Association's reserve account.

## 6. **INSURANCE**

The Association shall obtain and maintain at all times, as a Common Expense, insurance as required herein. All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees of Owners, if any. It shall be the duty of the Board at least every two (2) years to conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent to verify that insurance policies in existence meet the needs of the Association.

Such insurance shall run to the benefit of the Association, the Board, officers, all agents and employees of the Association, the Lot Owners, and their respective Mortgagees, and all other persons entitled to occupy any improved Lot, as their interests may appear. Unless the Association otherwise provides notice in writing to the Owners, the improvements and betterments made by the individual Lot Owners shall be excluded from this required coverage. Each Owner shall have the obligation to maintain personal property insurance at his or her own expense. The policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

(a) The Board shall utilize reasonable efforts to secure a blanket hazard insurance

policy providing "all risk" coverage. In the event such coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, in like amounts. The Board shall use reasonable efforts to obtain policies that will provide the following:

(i) the insurer waives its rights of subrogation of any claims against directors, officers, the individual Owners, Occupants, and their respective household members;

(ii) any "other insurance" clause contained in the master policy shall expressly exclude individual Lot Owners' policies from its operation;

(iii) the master policy may not be cancelled, substantially modified, or subjected to non-renewal without at least thirty (30) days prior notice in writing to the Board;

(iv) an agreed value endorsement and an inflation guard endorsement; and

(v) the deductible amount per occurrence shall not exceed one thousand dollars (\$1,000.00).

(b) All policies of insurance shall be written with a company licensed to do business in the state of Alabama.

(c) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Lot Owners or their Mortgagees.

(d) In addition to the insurance required hereinabove, the Board shall obtain as a Common Expense:

(i) worker's compensation insurance if and to the extent necessary to meet the requirements of law;

(ii) public liability insurance in amounts no less than required by the Declaration, as hereby amended, and officers' and directors' liability insurance in such amounts as the Board may determine. The public liability insurance shall contain a cross liability endorsement;

(iii) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in an amount constant with the best business judgment of the Board, but in no event less than three (3) months' assessments plus a reasonable amount to cover all or a reasonable portion of reserve

funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms: (a) the Association maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; or (b) two members of the Board must sign any checks written on the reserve account; and

(iv) such other insurance as the Board may determine to be necessary.

(e) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a Common Expense.

## 7. ARCHITECTURAL CONTROL COMMITTEE

(a) Notwithstanding anything to the contrary contained in the Declaration recorded in Book 289, Page 700 in the Office of the Judge of Probate of Shelby County, Alabama, the Architectural Control Committee shall be composed of the President of the Association, as elected from time to time, and two members of the Association designated by the President from time to time.

(b) Enforcement. Any construction, alteration, or other work undertaken in violation of Article III of the Declaration shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Paragraph and the architectural standards may be excluded by the Board from The Ridge, subject to the notice and hearing procedures contained in the By-Laws of the Association. In such event, neither the Association, its officers, or directors shall be held liable to any person for exercising the rights granted by this Paragraph.

In addition to the foregoing, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the Architectural Control Committee.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Elements in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the Owner or Occupant remove the change, alteration, or construction and restore the Common Elements to

its original condition, or it may require that the change, alteration or construction remain on the Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

## 8. MORTGAGEE'S RIGHTS

(a) Upon written request to the Association, identifying the name and address of the Mortgage holder and the Lot number or address of the Owner, any Mortgage holder will be entitled to timely written notice of:

(i) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a Mortgage held by such Mortgagee which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Lot Owner of any other obligation under Association Instruments which is not cured within sixty (60) days; and

(ii) a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

## 9. GENERAL PROVISIONS

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety within The Ridge; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security within The Ridge. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner.

The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

(b) Disputed Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer or director, a Lot Owner or Occupant must request and attend a hearing with the Board. Any such request shall be in writing and shall be personally delivered to any member of the Board. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule the hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the request.

(c) No Discrimination. No action shall be taken by the Association or the Board



which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

(d) Implied Rights. The Association may exercise any right or privilege given to it expressly by the Declaration, as hereby amended, the By-Laws, the Articles or Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

11. AMENDMENTS

Except where a higher vote is required for action under any other provisions of the Declaration, as hereby amended, in which case such higher vote shall be necessary to amend such provision, the Declaration and Amendment to Declaration may be amended by the affirmation vote, written consent (as provided for in the By-Laws), or any combination of affirmative vote and written consent of the members of the Association holding a majority of the total vote thereof. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Office of the Judge of Probate of Shelby County, Alabama.

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

IN WITNESS WHEREOF, each of the undersigned has caused this Amendment to Declaration of Easements and Restrictions to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 1997.

DECLARANTS:

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)