

This instrument prepared by:
COURTNEY H. MASON, JR.
Attorney at Law
2032 Valleydale Road
Birmingham, Alabama 35244

STATE OF ALABAMA)
SHELBY COUNTY)

544

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RIGHTS

WEATHERLY

This Declaration made on this day by Weatherly Enterprises, Inc., an Alabama corporation, hereinafter referred to as "Owner."

W I T N E S S E T H:

WHEREAS, the undersigned Owner owns in fee simple the following described legal estate situated in Shelby County, Alabama, to wit:

Lots 1-35, First Sector of Weatherly Subdivision as recorded in Map Book 13 page 1 in the Probate Office of Shelby County, Alabama.

known as "Weatherly".

NOW, THEREFORE, The Owner hereby declares that all of the above described properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions and rights which are for the purpose of creating uniformity, protecting the value and desirability of the above described property, and which shall run with the said real estate and be binding on all parties having any right, title or interest in the above described property or any part thereof, their heirs, successors and assigns shall enure to the benefit of each owner thereof, and shall, in addition thereto, be enforceable by each property owner, the City of Pelham, Alabama, the Shelby County Health Department and any other municipal entity at interest.

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1. MINIMUM PARCEL SIZE. No parcel of land may be divided leaving any parcel less than the original size as recorded on the final plat.

2. LAND USE AND BUILDING TYPE. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed two and one-half stories in height, with not less than 2000 square feet of heated living area and related non-residential out buildings. No mobile or modular housing is allowed. Separate garage buildings are permitted. Separate "guest houses", not to exceed 750 square feet are permitted.

3. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

4. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

5. SIGNS. No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or rent or signs used by a builder to advertise the property during the construction and sales period.

6. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

7. LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that one horse per acre, and dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.

8. WATER SUPPLY. No individual water-supply system shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of both state and local public health authorities. Approval of such system as installed shall be obtained from such authority.

9. SEWAGE DISPOSAL. No individual sewage disposal system shall be permitted on any lot unless such system is designated, located and constructed in accordance with the requirements, standards and recommendations of both state and local public health authorities. Approval of such system as installed shall be obtained from such authority.

10. SET BACK LINE. The front line of all residences and other structures must be set back in accordance with the recorded Final Plat from the dedicated right-of-way road. No structure of any nature may be placed

closer than 40 feet to the side or back boundaries of any parcel of land. The Architectural Control Committee reserves and shall have the right to grant reasonable variances from the setback line requirements.

11. SET BACK - OUT BUILDINGS. No structure other than the residence may be constructed closer to the ingress and egress road than the back of the residential building and no closer to a side or rear lot line than 40 feet.

12. CONCRETE BLOCK. No concrete block on any residential structure may be visible. No concrete block on any other structure may be visible from the road or street.

13. DRIVE-WAYS. All drive-ways visible from the ingress and egress streets must be concrete or asphalt.

14. ANTENNAES. Satellite dishes and radio towers are prohibited.

15. FENCES. No chain link fences may be constructed in front of the rear corners of any residence constructed upon a lot.

16. OWNERS ASSOCIATION. For the purpose of establishing, maintaining, operating and providing all common services of every kind and nature required or desired within Weatherly as designated on the recorded plat of Weatherly for the general use and benefit of all such plat of Weatherly for the general use and benefit of all such lot owners, including but not limited to, road maintenance, traffic control, general planting within or along roadway areas or entrances, or designated common areas along Peavine Creek, each and every such lot owner and future lot owner, in accepting the deed or contract for any lot or lots in Weatherly may be a member, and if he elects to be a member, and shall be subject to the obligations and duly enacted By-laws, rules and regulations, of the Association of Homeowners of Weatherly (herein referred to as the "Association") which may be incorporated or unincorporated, profit or non-profit, as the same is from time to time composed. There shall be no more than one vote in any such association for each lot owned. Owner reserves the right to name the directors of said Association until Owner elects to terminate its control over the Association or all lots are sold by Owner, whichever is first.

16. COMMON AREAS. Certain areas as designated on the recorded map of the Subdivision are common areas. Owner shall convey title to the said common areas to the Association on or before January 1, 1998 or such earlier time as Owner elects to convey title. Upon transfer of title any and all duties of Owner regarding said common areas are forever discharged and released and Owner shall have no further duties, if any.

17. ARCHITECTURAL CONTROL COMMITTEE.

A. The Architectural Control Committee shall, initially, be appointed by the Owner. A majority of the committee may designate a representative to act for it. In the event of the death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. At any time the then-record owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

B. All plans for any structure or improvement whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the exterior construction material, the roofs, and any later changes or additions to the exterior of the building after initial approval thereof, on any lot shall be subject to and shall require the approval in writing of the Committee before any work is commenced. Construction may not be started before receipt of a Letter of Approval of the Committee, a copy of which must be signed by the Builder Purchaser of the property and returned to the Committee for retention.

C. Any remodeling, reconstruction, alterations or additions to an existing residence shall not require the written approval of the Committee but shall comply with all restrictions and covenants.

D. One set of prints of the drawings (herein referred to as "plans") for each house or other structure proposed to be constructed on each lot shall be submitted for review and approval or disapproval by the Committee. The plans submitted to the Committee shall be retained by the Committee. Said plans should be delivered to the office of Weatherly Enterprises, Inc., 3656 Cahaba Beach Road, Birmingham, Alabama at least ten (10) days prior to the beginning of construction. Each such plan must include the following:

1. An accurately drawn and dimensional plot plan showing all building set-backs, easements, drives and walks and a clearing plan and proposed erosion control measures to protect adjoining property owners.

2. A foundation plan, a floor plan, a sketch of the exterior elevations of buildings as they will actually appear after all back filling and landscaping is done from finished ground up. (The back filling sketch may be drawn by a builder.)

3. All plans must include a summary specifications list of proposed materials which details colors, textures and type, and samples of exterior materials, if available.

E. The Committee's approval or disapproval as required by these covenants shall be in writing. In the event the Committee or its designated representative, fails to approve or disapprove within 10 days after plans and specifications

have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

F. Neither the Committee nor any architect nor agent thereof nor the developer shall be responsible to check for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, nor shall they be liable for any breaches of the terms of these Covenants due to any failure to properly review plans or complete other duties hereunder and any such claims against the Committee or any architect or agent thereof or the developer or Owner are waived and released, without reservation.

18. ADDITIONAL REAL ESTATE MAY BE INCLUDED. Owner reserves the right to include additional real estate under these covenants.

19. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years. A majority of the fee owners of the lots may change, modify or cancel these covenants in whole or in part, upon execution and recordation of a written instrument providing for such change, modification or cancellation.

20. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. The prevailing party in any such action may recover a reasonable attorney's fee and costs of suit.

21. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no manner affect any of the other provisions which shall remain in full force and effect.

22. Ms. Betty Kappel shall have a non-assignable lifetime right of access and use of common areas and horse trails as long as she owns property adjoining Weatherly.

23. TREE CLEARING. The intent of the developers of Weatherly - Sector 1 is to preserve for present and future lot owners a heavily wooded physical environment in which a maximum amount of existing vegetation is preserved in an undisturbed state, typical of an oak-hickory forest, and that each lot owner is required to replace dying, diseased or absent trees in order to maintain a desired degree of tree coverage. Hence, each lot owner in Weatherly shall observe the following restrictions regarding the removal and restoration of vegetation: no more than 50% of the trees may be removed; the owner must replant dead or diseased trees; any clearingcutting of pastureland must be approved by the Architectural Control Committee and must be located behind the home and no closer than 40 feet of the boundary line.

24. CROPS. No lot shall be cultivated for crops of any sort, except for gardens of reasonable size, which must be located in the rear of any dwelling.

25. ROADS. Weatherly Enterprises, Inc. or its transferors or assigns reserves the right to make any road or other improvements abutting on said property, to change the present road or other street grades, if necessary, without liability to the purchasers, their heirs and assigns for any claims for damages; and further reserves the right to change or modify the restrictions on any property in said subdivision.

26. TRASH REMOVAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers, equipment for storage or disposal of such material shall be kept in a clean and sanitary condition.

27. MISCELLANEOUS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 5 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 and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sightline limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient heights to prevent obstruction of such sightlines.

28. Once the construction of any building is begun, work thereon must be prosecuted diligently and continuously and must be completed within 18 months.

29. During all construction, all vehicles, including those delivering supplies, must enter the building lot on the driveway only as approved by the undersigned so as not to unnecessarily damage trees, street paving and curbs. Any damage not repaired by the contractor will be repaired by the undersigned (after 10 days written notice) and will be charged to the contractor (or Owner) at a reasonable cost for such services, 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. Such debris will not be dumped in any area of the subdivision.

30. The undersigned reserve for themselves, the successors and assigns the right to use, dedicate and/or convey to the State of Alabama, 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, conveniences 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.

31. No occupant of any lot may accommodate boarders or lodgers for hire on the premises.

32. No lot shall be sold or used for the purpose of extending any public or private road, street, or alley, or for the purpose of opening any road, street, or alley, except by the prior written consent of Weatherly Enterprises, Inc., its successors and assigns.

33. To insure the maintenance of the natural beauty, no owner shall be allowed to dam up the creeks which flows through said subdivision, nor shall they change the flow of said creek or wet weather streams.

34. Utilities. All homes constructed shall utilize natural gas heat and water heating, if gas is available at time of construction.

IN WITNESS WHEREOF, the Owner has hereunto set its hand and seal this the 2 day of NOVEMBER, 1988.

WEATHERLY ENTERPRISES, INC.
An Alabama Corporation

By: [Signature]
Its President

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Steven E. Chambers, President of Weatherly Enterprises, Inc., whose name is signed to the foregoing Declaration of Covenants, Conditions, Restrictions and Rights, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Declaration, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Weatherly Enterprises, Inc.

Given under my hand and official seal, this the 2nd day of NOVEMBER, 1988.

(SEAL)

[Signature]
Notary Public

My Commission Expires March 10, 1991

STATE OF ALA. SHELBY
I CERTIFY THIS
INSTRUMENT WAS FILED

88 NOV -7 PM 1:06

[Signature]
JUDGE OF PROBATE

RECORDING FEES
Recording Fee \$ 17.50
Index Fee 1.00
TOTAL 18.50