

STATE OF ALABAMA

COUNTY OF SHELBY

**DECLARATION OF PROTECTIVE COVENANTS
OF
EMERALD LAKE SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS, That:

WHEREAS, Stephen H. Lee, (herein the "Developer"), is the owner of the following described real property:

EMERALD LAKE, Plat No. 1, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 23A, 24, 25, 26, 27, 28, 29, 30, and 31 as recorded in Map Book 19, Page 30, in the Probate Office of Shelby County, Alabama (referred to herein as "Emerald Lake Subdivision" or the "Property").

WHEREAS, Developer desires to subject the Property to this Declaration and each Lot located in said survey to the conditions, limitations, Restrictions.

NOW, THEREFORE, DEVELOPER does hereby proclaim, publish and declare that the Property shall be held, conveyed, hypothecated or encumbered, rented, used, occupies and improved subject to the Declaration, which shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in any part of the Property.

ARTICLE I

MUTUALITY OF BENEFIT AND OBLIGATION

The Restrictions set forth herein are made for the mutual and reciprocal benefit of each and every part of the Property and are intended to create mutual, equitable servitudes upon each such part of the Property and in favor of each and all such parts of the Property therein, to create reciprocal rights between the respective owners and future owners of such Property; and to create a privity of contract and estate between the grantees of said Property, their heirs, successors and assigns. All of the Property shall be held, transferred, sold, conveyed, used, leased, occupies, mortgaged or otherwise encumbered subject to all the terms and provisions of this Declaration.

Inst # 1994-36305

12/12/1994-36305
09:36 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
010 MCD 31.00

Courtney

Inst # 1994-36305

ARTICLE II

DEFINITIONS

SECTION 2.1 Committee. The Architectural Control Committee.

2.2 Declaration. This Declaration of Protective Covenants of Emerald Lake Subdivision which shall be recorded in the Probate Records of Shelby County, Alabama, as the same may from time to time be supplemented or amended in the manner described therein.

2.3 Deed. Any deed, assignment, lease, or other instrument conveying fee title or a leasehold interest in any Lot subjected to these Restrictions.

2.4 Developer. Stephen H. Lee, his successors, heirs, and assigns.

2.5 Lot. Residential Property in Emerald Lake Subdivision, platted of record.

2.6 Owner's Property. All Lots which are subjected to the Declaration.

2.7 Owner. The owner of a Lot.

2.8 Property. The real property of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 23A, 24, 25, 26, 27, 28, 29, 30, and 31 described as: Emerald Lake, Plat No. 1, as recorded in Map Book 19, Page 30, in the Probate Office of Shelby County, Alabama.

2.9 Resident. Any person or persons occupying or leasing an Owner's Property.

2.10 Restrictions. The covenants, agreements, easements, charges and liens created or imposed by this Declaration.

ARTICLE III

CONSTRUE WITH EMERALD LAKE & DAM COVENANTS

SECTION 3.1 General. This Declaration shall be read, construed and interpreted in a manner consistent with the Declaration of Protective Covenants, Agreements, Easements, Charges, and Liens for Emerald Lake & Dam, as recorded simultaneously herewith in the Probate Office of Shelby County, Alabama.

3.2 Easement For Lake and Dam Maintenance. Pursuant to the Declaration of Protective Covenants, Agreements, Easements, Charges, and Liens for Emerald Lake & Dam, the Emerald Lake & Dam Association shall have the right, through its

agents, employees and contractors to enter within a twenty foot (20') wide strip beginning at the intersection of Lots 30 and 31 and Emerald Lake Drive, extending southwest between Lots 30 and 31, and extending along the southern border of Lots 30 and 29 to Emerald Lake to cut grass and weeds, rake leaves, repair and/or improve the dam, and perform such other level of degree of lakeside maintenance. The amount of lakeside maintenance shall be determined by the Emerald Lake & Dam Association.

3.3 Emerald Lake and Dam. Only those persons who own Lots which abut Emerald Lake and are Members of Emerald Lake & Dam Association and Stephen H. Lee, his successors and assigns, may use or enjoy Emerald Lake & Dam Association land, including the lake and dam.

ARTICLE IV

EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

SECTION 4.1 Nature and Use of Structures. All Lots in the tract shall be known and described as residential Lots and shall be used for single-family residential purposes exclusively.

4.2 Single-Family Use. No more than a single-family unit shall occupy any dwelling house.

4.3 Structure Height and Other Structures. No structure shall be erected, altered, placed or permitted to remain on any residential building Lot other than detached single-family dwellings not to exceed two and one-half storied, 35 feet in height, and a private garage for not more than four cars, and other outbuildings incidental to and necessary for property residential use of the Lot.

4.4 Sales Center. Notwithstanding anything to the contrary herein, the undersigned or their assigns shall be permitted to construct and maintain on one Lot only a structure and related facilities designed and used as a sales center for the marketing of real estate including the Lots subject to these covenants and adjoining land and improvements thereon owned by the undersigned or his assigns.

4.5 Structure Location. No building shall be located on any Lot nearer to the front Lot line or nearer to the 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 35 feet to the rear Lot line. For the purpose of this covenant, eaves, steps, and open decks or terraces shall not be construed as a part of a building; provided, however, that this shall not be construed to permit any portion of a building, on a Lot, to encroach upon another Lot.

4.6 Structure Size. Each main structure of a residential building, exclusive of open porches, garages and basements shall meet the following size restrictions: A one-story house shall contain not less than 1800 square feet of finished and heated living area. In the event of 1-1/2 story house, not less than 1900 total square feet shall be of finished and heated living area. A 2 story house shall not have less than 2200 square feet of finished and heated living area. A split foyer house shall not have less than 1700 square feet on main level and no less than 600 on lower level.

4.7 Temporary Structures. No structure of a temporary character, or trailer, basement, tent or shack shall be used at any time as a residence, either temporarily or permanently. There shall be no occupancy of any dwelling until the interior and exterior of the dwelling in complete and a certificate, or other satisfactory evidence, of completion is received by and approved by the Committee.

4.8 Fences, Walls, Hedges, and Shrubs. No fence, wall, hedge, shrub, or 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 and a line connecting them at points 25 feet from the intersection of the street lines or in the case of rounded property corner from the intersection of 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 or alley pavement. Trees shall be permitted to remain within distances of such intersections provided the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

4.9 Duration of Construction. When the construction of any building is once begun, work thereon must be prosecuted diligently and continuously and must be complete within 12 months.

4.10 Construction in General. During all construction, all vehicles, including those delivering supplies, must enter the building lot on the driveway only as approved by the Committee so as not to unnecessarily damage trees, street paving and curbs. Any damage not repaired by the contractor will be repaired by the Developer (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.

4.11 Garage Doors. Garage doors shall not be permitted on the front of homes except on approval of the Committee.

4.12 Parking. No open parking or storage of boats, trailers and other vehicles. Boats, boat trailers, pick-up campers, motor homes, buses, commercial vehicles, motor homes, and trailers of every kind must be parked or stored only in an enclosed garage or a carport and may not otherwise be parked on any Lot or

on the street, or in any open parking area. No unused or inoperable automobiles shall be permitted on a Lot, and no automobile repair shall be conducted on any Lot, except for temporary repairs effected by authorized outside mechanics.

4.13 Air Conditioning Units. Outside air conditioning units must be located in the rear or side of the house.

4.14 Plumbing and Heating Vents. No plumbing or heating vent shall be placed on the front of a house, only on the side or rear as required. All plumbing fixtures are to be water conservative.

4.15 Finish of Windows and Doors. There shall not be silver finish doors or windows of any kind; however, a factory painted or anodized finish may be used. The color of such finish should be natural earth tones.

4.16 Aluminum Siding. No aluminum siding shall be permitted to be installed on the exterior of any structure or residential building, constructed on a Lot except soffits and dormers.

4.17 Mailboxes. All mailboxes shall be of masonry construction unless the or Committee consents to a variance of this requirement.

4.18 Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than 2 square feet, one sign of not more than 6 square feet advertising property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. All signs shall comply with design specifications of the Committee. No signs shall be nailed to trees. This provision shall not apply to the undersigned or their assignees during the sales period.

4.19 Concrete Block. No exposed concrete block will be allowed.

4.20 Masonry Construction of Residences. The front and sides of a residence must be at least 3/4 masonry construction, unless the Committee consents to a variance of this requirement.

4.21 Satellite Dish Antennas and Radio Towers. No satellite dish antennas, and no radio towers will be allowed.

4.22 Oil Drilling and Mining. No oil drilling, oil development, oil operation, 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.

4.23 Offensive Activities. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4.24 Trash and Garbage. No trash, garbage or other refuse shall be dumped, stored or accumulated on any Lot. Trash, garbage or other waste shall not be kept on any Lot except in sanitary containers or garbage compactor units. Garbage containers, if any, 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 as not to be visible from any road or waterway within sight distance of the Lot at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction period.

4.25 Weeds, Underbrush, and Refuse. No weeds, underbrush or other unsightly 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 suffered to remain upon any part of the Property, including vacant parcels. The undersigned reserves the right(after 10 days notice to the Owner) to enter any residential Lot during normal working hours for the purpose of mowing, removing, cleaning or cutting underbrush, weeds, or other unsightly growth and trash which, in the sole opinion of the undersigned, detracts from the overall beauty and safety of the subdivision and may charge the Owner a reasonable cost for such services, which charge shall constitute a lien upon such Lot enforceable by appropriate proceedings at law or equity. This provision shall not apply to the undersigned or their assigns during the sales and development period, such sales period to extend until the last Lot is sold by the undersigned.

4.26 Animals and Livestock. No animals livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except dogs, cats, or other household pets. Dogs, cats, and other household pets may be kept, provided they are not bred, maintained for any commercial purposes.

4.27 Unclean and Unkept Conditions. It shall be the responsibility of each Lot Owner to prevent the development or occurrence of any unclean, unsightly or unkept conditions of, buildings or grounds on such Lot which shall tend to decrease the beauty of the specific area or of the neighborhood as a whole.

4.28 Further Subdivision of Lots. No Lot, once subdivided and recorded by the undersigned or their assigns, shall be further subdivided.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE AND PLAN APPROVAL

SECTION 5.1 Composition of Committee. The Architectural Control Committee is composed of Stephen H. Lee, his successors, heirs, assigns, or designated representative. All plans must be approved prior to construction. The Committee may be changed when the majority of record owner occupants have a majority of the Lots, and through the duly recorded written instrument change the membership of the Committee.

5.2 Plans for Improvements. All plans for any structure or improvement whatsoever to be erected on or move 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 on any Lot after initial approval thereof shall be subject to and require the approval in writing of the Committee before any work is commenced. Construction may not be started before receipt of Letter of Approval from the Committee, a copy of which must be signed by the Builder, Owner, and returned to the Committee for retention.

5.3 Interior Remodeling. Any remodeling, reconstruction, alterations or additions to the interior of an existing residence shall not require the written approval of the Committee, but shall comply with all Restrictions and covenants.

5.4 Written Approval Required. 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 disprove submitted plans and specifications which have been submitted to it, with 10 business days after receipt of same, then such plans and specifications shall be deemed to have been approved by the Committee and the related covenants herein shall be deemed to have been fully complied with.

5.5 Defects. Neither the Committee nor any architect or 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 herein shall not give any warranty, either expressed or implied regarding the structural integrity or soundness of any structure to be erected upon any Lot in the subdivision. Any such approval may not be relied upon in any fashion by any Purchaser of a residence within the subdivision.

ARTICLE VI

CONVEYANCE OF EASEMENTS

The Developer reserves for himself, his successors and assigns the right to use, dedicate and/or convey to the State of Alabama, to Shelby County, and/or to the appropriate utility company or companies, right-of-way or easements on, over, across, or under the ground erect, maintain and use utilities, electric and telephone poles, wires, cables, conduits, storm sewers, water mains and other suitable equipment, for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in and over strips of land as required along the rear property line of each Lot and as required along each side line of each Lot.

ARTICLE VII

SUBMISSION OF ADDITIONAL REAL PROPERTY; ADDITIONAL COVENANTS AND RESTRICTIONS

SECTION 7.1 Submission of Additional Real Property. Developer may at any time during the pendency of this Declaration add any additional real property, now or hereafter acquired by Developer, to the Property which is covered by this Declaration. Additional real property may be submitted to the provisions of this Declaration by an instrument executed by Developer, his heirs, successors, or assigns in the manner required for the execution of deeds. Such instrument shall: (i) refer to this Declaration stating the book or books of the records of Shelby County, Alabama, and the page numbers where this Declaration is recorded; (ii) contain a statement that such real property is subjected to the provisions of the Declaration; (iii) contain an exact description of such additional real property; and (iv) such other or different covenants, conditions and Restrictions as Developer shall, in its discretion, specify to regulate and control the use, occupancy and improvement of such additional real property.

7.2 Developer's Easement. The Developer, his successors, heirs, and assigns reserve for themselves and/or the appropriate utility company or companies, right-of-way or easements on over, across or under the ground in order to use and maintain utilities, electric, telephone poles, wire, cables, suitable equipment, gas, sewer, water, or other public conveniences or utilities on, in and over strips of land as required along the rear property line of each Lot and as required along each side of each Lot.

7.3 Additional Covenants and Restrictions. The undersigned, and only the undersigned, may include in any contract or deed hereafter and may make any additional covenants and restrictions that are not inconsistent with and which do not lower the standards of these covenants and Restrictions. These covenants and Restrictions shall, nevertheless, remain in full force and effect.

ARTICLE IX

GENERAL

SECTION 8.1 Grantee's Acceptance. The grantee of any Lot subject to the coverage of these Restrictions, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, shall accept such deed or other contract upon and subject to each and all of these Restrictions herein contained.

8.2 Severability. Every one of these provisions and Restrictions is hereby declared to be independent of, and severable from the rest of the provisions and Restrictions in this Declaration.

8.3 Captions. The captions preceding the various sections, paragraphs and subparagraphs of these Restrictions are for convenience of reference only,

and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

8.4 Effect of Violation on Mortgage Lien. No violation of any of these Restrictions shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in actual possession, or any purchaser at any portion of the Property.

8.5 No Reverter. No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

8.6 Duration and Amendment. The Restrictions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by the Developer, and to the Owners of any Lot or other parcel included in the Property, their respective legal representatives, heirs, successors and assigns until the 31st day of December in the year 2012, after which time said Restrictions shall be automatically extended for successive periods of ten years.

8.7 Enforcement. In the event of a violation or breach of any of these Restrictions or any amendments thereto by any Lot Owner, or employee, agent, or lessee of such Owner, or by any Resident, then the Owner(s) of Lot(s), or the Developer, their heirs, successors and assigns, or any party to whose benefit these Restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said Restrictions, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to him upon the recurrence or continuation of said violation or the occurrence of a different violation. Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity. Any party to a proceeding who succeeds in enforcing a Restriction or enjoining the violation of a Restriction against an Owner may be awarded a reasonable attorney's fee against such Owner.

8.8 Certificate of Violation. In addition to any other rights or remedies available to the Developer and Owners hereunder or at law or equity, the Developer and Owner shall have the right to file in the Records of Shelby County, Alabama, a Certificate or Notice of Violation of these Restrictions upon failure of a Lot Owner to correct a violation of these Restrictions within 30 days after written notice of the violation has been given by the Association to the Lot Owner.

8.9 No Waiver. The failure of any party entitled to enforce any of these Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such

a violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to Article V shall be binding on any and all parties as a conclusive determination that such plans are in conformity with these Restrictions.

IN WITNESS WHEREOF, the Declaration of Protective Covenants of Emerald Lake Subdivision has been executed by Stephen H. Lee, effective the 7th day of December, 1994.

STEPHEN H. LEE

By: Stephen H. Lee

STATE OF ALABAMA

COUNTY OF SHELBY

I, Sharon Ware, a notary public in and for said County in said State, hereby certify that Stephen H. Lee's name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily.

Given under my hand and official seal this 7th day of December, 1994.

Sharon Ware
Notary Public

My Commission Expires: 9-13-95

THIS INSTRUMENT PREPARED BY:
Courtney Mason & Associates, P.C.
P.O. Box 360187
Birmingham, Alabama 35236

Inst # 1994-36305

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12/12/1994-36305
09:36 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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