

AMENDED AND RESTATED COVENANTS

Recitals

WHEREAS, Shelby Lake Corporation, an Alabama corporation ("Shelby"), was organized September 15, 1953, as a business corporation under Title 10, Code of Alabama 1940, as evidenced by a Certificate of Incorporation recorded at Inc. 93, Page 415 et. seq. in the Probate Office of Jefferson County, Alabama; and

WHEREAS, Shelby was formed for the purpose of serving as an association of purchasers of lots at "Smyer Lake", which was a lake then being constructed in Shelby County, Alabama on land owned by S.W. Smyer, Jr. ("Smyer"), and by the Mountain View Land company, an Alabama corporation ("Mountain View"); and

WHEREAS, by warranty deed dated January 1, 1954, and recorded at Book 172, Page 234 in the Probate Office of Shelby County, Alabama, Smyer conveyed to Shelby all of the bed of "Mountain View Lake" (now known as "Smyer Lake") as identified in the plat of Mountain View Lake Subdivision, 1st Sector, recorded at Map Book 3, Page 135, in the Probate Office of Shelby County, Alabama (the "1st Sector Plat": "Mountain View Lake" is also identified in the plat of Mountain View Lake Subdivision, 2nd Sector, recorded at Map Book 3, Page 150, the "2nd Sector Plat", the 1st and 2nd Sector Plats being herein collectively referred to as the "Lake Plats"); and

WHEREAS, by instrument dated March 25, 1955, recorded at Book 172, Page 236 in said Probate Office, Mountain View imposed certain restrictions, conditions and

limitations upon the real property described in the 1st Sector Plat (the "Mountain View Covenants"); and

WHEREAS, by the following deeds recorded in said Probate Office in 1992 and 1993, Smyer and members of his family conveyed to Shelby the balance of the real property comprising the caretaker's house, roads, dam, spillway and other inholdings within the "Private Road" identified on the Lake Plats (now known as "Smyer Lake Road") which together constitute the common areas of the lake, lots and development identified in the Lake Plats (collectively, the "Smyer Lake Development"):

1. Warranty Deed recorded 9/1/1992 as Instrument # 1992-18637
2. Warranty Deed recorded 3/24/1993 as Instrument #1993-08108
3. Warranty Deed recorded 3/24/1993 as Instrument #1993-08109; and

WHEREAS, Shelby is the successor in title to all of the above-described common areas of the Smyer Lake Development (the "Common Areas"); and

WHEREAS, the stockholders of Shelby have elected to reorganize Shelby as an Alabama nonprofit corporation pursuant to Title 10, Chapter 3A, Sections 10-3A-1 through 225, inclusive, Code of Alabama (the "Alabama Nonprofit Corporation Act", or "Act"), and pursuant to a plan of reorganization adopted by the stockholders of Shelby have organized Smyer Lake Homeowners Association, Inc., under the Act (the "Smyer Lake Association", or "Association") as evidenced by Articles of Incorporation and

Bylaws of the Association recorded on July 10, 2006, at Bk. LR 2006, p. 19269 in the Probate Office of Jefferson County, Alabama, Birmingham Division as amended by instrument recorded on July 14, 2006, at Bk. LR 200611, p. 27695 (the "Articles" and Bylaws), and have caused Shelby to convey to the Association all of the Common Areas of the Smyer Lake Development as evidenced by deed recorded as Instrument # 20060808000³⁸²⁷⁰⁰ in the Probate Office of Shelby County, Alabama; and

WHEREAS, Smyer Lake Association is a membership corporation with its members ("Members") consisting of all record owners of fee title to each lot in the Smyer Lake Development, there being one (1) voting right for each such lot in accordance with the Bylaws of the Association; and

WHEREAS, the Association is currently engaged in the process of preparing a master plan to address needed improvements and guidelines for the further use and development of the Smyer Lake Development (the "Master Plan"); and

WHEREAS, Smyer Lake Association, as successor in title and owner of the Common Areas, desires to amend and restate the Mountain View Covenants to reflect the transactions herein referred to related to the Common Areas since the filing of the Mountain View Covenants in 1955, to cause the same to apply to those lots identified in the 2nd Sector Plat as well as to those identified in the 1st Sector Plat, to conform the terms of the Mountain View Covenants to the terms of the Articles and Bylaws; and to

anticipate future revisions to the Covenants which may be appropriate following approval of a Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Members of the Smyer Lake Association, as evidenced by a consent action taken by written consent of more than two thirds (2/3rds) of the voting Members taken as of May 21, 2006, the Mountain View Covenants are hereby amended, superceded, and restated in their entirety to read as follows:

RESTRICTIVE COVENANTS

Smyer Lake Association hereby declares that the Common Areas, and all lots described in the Lake Plats, as the same may now or hereafter re-subdivided or amended, and all other lots or parcels, whether described by metes and bounds or otherwise, now or hereafter having a right of access to Smyer Lake and the Common Areas (collectively, the "Lots"), shall be held, owned, developed, used and operated, and sold, leased, mortgaged or otherwise conveyed, subject to the following described covenants and restrictions (collectively the "Covenants"), which shall run with the land, and be binding upon Smyer Lake Association and its Members, and upon all parties now or hereafter having any right, title or interest in or to any of the Lots or the Common Areas or any portion thereof.

1. The Common Areas and Lots within the Smyer Lake Development (together, the Lots and Common Areas may be referred to herein as the "Property") shall not be used for any commercial purpose. It is contemplated that the use of the Lots shall be for either permanent or vacation residences, and therefore any use thereof which shall be inconsistent with these uses shall be prohibited.
2. There shall be no temporary residence constructed on any portion of the Property. No residence shall be built closer than 40 feet to the closest lot line, unless the written consent of the Association and the adjoining property owner is first obtained.
3. Each residence constructed on the Property shall contain a suitable septic tank, the location of which must be approved by the Association. No polluted water shall be allowed to flow into Smyer Lake.
4. No Lot shall be subdivided unless the written consent of the Association and two thirds (2/3rds) of the voting Members of the Association is first obtained.
5. No Lot shall be leased unless the written consent of the Board of Directors of the Association (the "Board") has been first obtained.
6. No farming shall be allowed on any Lot.
7. No kennels or stables shall be placed on any Lot.

8. Any residence constructed on any Lot shall have a minimum of 600 square feet living area exclusive of porches and garages. The plans and specifications for any residence to be constructed on any Lot must be submitted to the Board for their approval. The location of any garage or servants house to be constructed on any Lot must be approved by the Board.

9. The Articles and Bylaws of the Association provide that the Association has the power to fix and determine sums necessary to pay the Common Expenses of the Association and make and collect Assessments (as such capitalized terms are defined in the Bylaws) against Members for the payment of the same, including the power to levy and enforce liens against Lots for unpaid Assessments and related charges owned by the Member owners thereof in the manner provided for in the Bylaws. Each Member owning a Lot, by acceptance of a deed or other instrument conveying an interest therein, regardless whether such deed or instrument contains a reference to these Covenants, is deemed to covenant and agree to pay the Association all Assessments (whether annual or special) made in accordance with the Bylaws, together with all late charges, interest, court costs and attorneys' fees incurred by the Association to enforce and collect the same, which shall constitute an equitable charge and lien upon each Lot for which the Member owner(s) thereof are responsible for the payment of the same, which lien may be enforced in the manner provided for in Section 4 of the Bylaws, including any amendments thereto.

10. The provisions of these Covenants, including any amendments hereto, shall be binding upon and apply to all Lots and other Property of the Smyer Lake Development, and shall constitute covenants running with the land with respect to all of the Lots and Property of the Smyer Lake Development, and inure to the benefit of and be enforceable by Smyer Lake Association, and its successors and assigns for a period of ninety nine (99) years from the date hereof, after which time these Covenants shall be automatically renewed and extended for successive and continuous periods of ten (10) years each, unless terminated by action taken by the affirmative vote of two thirds (2/3rds) of the voting Members of the Association in the manner provided in paragraph 10 of these Covenants.

11. The provisions of these Covenants may be amended on or before July 15, 2007, to address revisions that may be required to conform the Covenants to the provisions of a Master Plan following its approval by the Members. An amendment to these Covenants pursuant to this paragraph 11 shall require the vote of the Board of Directors of the Association and of sixty percent (60%) of the Members, and shall be evidenced by an instrument executed by and recorded in the manner provided for in paragraph 12 of these Covenants.

12. Subject to the provisions of paragraph 11 above, the provisions of these Covenants may be amended from time to time or terminated by the Association upon a vote by its Board of Directors and a two thirds (2/3rds) majority of its voting Members as evidenced by an instrument executed by the Association, and containing a certificate by

the Secretary of the Association to the effect that the written consent of all voting Members whose consent to the same is required has been obtained, upon the recording of the same in the real property records in the Probate Office of Shelby County, Alabama.

IN WITNESS WHEREOF, Smyer Lake ~~Association~~ ^{HOMEOWNERS}, Inc. has caused these Covenants to be duly executed as of the 26th day of JULY, 2006.

Smyer Lake ~~Association~~ ^{HOMEOWNERS}, Inc.
By: [Signature]
Its President

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that ALEX KONTOS, whose name as President of Smyer Lake ~~HOMEOWNERS~~ Association, Inc., an Alabama nonprofit corporation, is signed to the foregoing Amended and Restated Covenants, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such President and with full authority, executed the same voluntarily for and on behalf of said corporation on the day the same bears date.

Given under my hand and official seal this 26th day of July, 2006.

{Notary Seal}

James H. Evans
Notary Public
My Commission Expires: 11/13/2007

Secretary's Certificate

I, JERRY LANNING, the undersigned ASSISTANT HOMEOWNERS
Secretary of Smyer Lake Association, Inc.,
hereby certify that the foregoing Amended and Restated Covenants have been approved
by the Board of Directors and by a two thirds (2/3rds) majority of the voting Members of
Smyer Lake HOMEOWNERS
Association, Inc.

This 26th day of JULY, 2006.

Jerry Lanning
Asst. Secretary



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Shelby Cnty Judge of Probate, AL
08/08/2006 11:39:52AM FILED/CERT

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned notary public in and for said county in said state, hereby certify that JERRY LANNING, whose name as ASSISTANT Secretary of Smyer Lake HOMEOWNERS Association, Inc., an Alabama nonprofit corporation, is signed to the foregoing Secretary's Certificate, and who is known to me, acknowledges before me on this date that, being informed of the contents of such instrument, he, as such Secretary and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 26th day of JULY,
2006.

{Notary Seal}

Rebekah Porter
Notary Public
My Commission Expires: 2.10.09