

STATE OF ALABAMA)

COUNTY OF SHELBY)

**SECOND AMENDMENT TO DECLARATION OF
PROTECTIVE COVENANTS FOR WINDCHASE, A
RESIDENTIAL SUBDIVISION**

THIS SECOND AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS FOR WINDCHASE, A RESIDENTIAL SUBDIVISION (this "Amendment") is made and entered into as of the 15th day of August 2023 by WINDCHASE OWNER'S ASSOCIATION, an unincorporated homeowners association (the "Association").

RECITALS :

Windmere Development Co., Inc. an Alabama corporation ("Developer"), executed the original Declaration of Protective Covenants which has been recorded as Instrument # 19940405000109921 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), and which was amended by the First Amendment thereto dated August 30, 2000 and recorded as Instrument # 20001027000373571 in the Probate Office (collectively, the "Declaration"). *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.*

The Association is the owners' association established and referred to as the "Association" in the Declaration.

The Association desires to amend Article VII of the Declaration.

Developer no longer owns any Lot or Dwelling within the Subdivision and homes on all lots sold by the original Developer have been constructed and Developer has relinquished control of the Association and its Architectural Review Board. As a result thereof, pursuant to section 10.02 of the Declaration, any amendments to the Declaration must be approved by two-thirds (2/3rds) of the total votes of the Owners, in person or by proxy, at a meeting of the Association called by the Board for the purpose of acting on any such proposed amendment.

On June 12, 2023, the Board called and gave notice of a special meeting of the Owners in the Association to take place on August 8, 2023 for the purpose of acting on this Amendment, at which (a) 46 of the 59 Owners were present, in person or by proxy (thereby satisfying the quorum requirements set forth in the Declaration and Bylaws of the Association), and (b) more than 40 of the total votes of the 59 Owners voted in favor of all of the Amendments made in this Second Amendment as required by the Declaration. Charles Burkhardt, as President of the Association, has joined in the execution of this Amendment in order to certify the foregoing. Accordingly, all Owners of all Lots and Dwellings in the Subdivision shall be bound by all of the terms and provisions of this Amendment.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties do hereby agree as follows:

1. Article VII of the Declaration is amended and revised to state the following in its entirety:

ARTICLE VII

RESTRICTIONS

7.01 Use Restrictions. The Property will be used for residential purposes only and no trade or business of any kind may be carried on in or from any dwelling. The use of any portion of a dwelling as an office by an owner or dwelling renter shall not be considered a violation of this covenant if such use does not create regular customer, client or employee traffic. The rental of a dwelling for residential purposes shall not be considered a violation of this covenant so long as the

- (a) rental of the residential dwelling is for not less than the entire dwelling, and
- (b) is for a term of at least three(3) months.

No building or structure other than a single-family dwelling shall be erected on any Lot within the Property except as otherwise permitted herein. Prohibited uses include, but are not limited to:

(c) dangerous, noxious, offensive or excessively noisome activities which may be or become annoyance or nuisance to Owners; and

(d) raising, breeding, or keeping of any animals, bird, or fowl; provided that an Owner shall be permitted to keep not more than two dogs and/or cats as domestic pets on a single Lot and provided further that the Association, in its sole discretion, may approve more animals to be kept as domestic pets on a Lot; and

- (e) exploring, mining, boring, quarrying, drilling, or otherwise removing oil

Any Owner may request from the Association at any time a determination of whether a projected use of its Lot is permitted. A certificate to that effect signed by an officer of the Association shall be deemed to be dispositive of that issue.

7.02 Lot size. Unless otherwise permitted in Article II of this Declaration, no Lot shall be subdivided without the prior written approval of the Association.

7.03 Limitation on Size and Location of Structures.

(a) No structure shall be erected, altered, placed or permitted to remain on any Lot other than a main single family dwelling not to exceed two and one-half stories, or thirty-five (35) feet in height and private garage for not more than four cars. No detached building other than the main single family dwelling shall be constructed or permitted on any Lot unless previously approved by ARB.

(b) No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat for the Property. No building shall be located on any Lot nearer than 30 linear feet to the front line, or nearer than 30 linear feet to any side street line. For the purpose of this covenant, eaves, steps, and open decks or terraces shall not be considered 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.

(c) Each main structure residential building, excluding of open porches, garages, basements and carport, shall not be less than 2,000 square feet on the ground floor of any one-story building, not less than a total of 2,200 square feet in the case of a 1-1/2 first floor of a 1-1/2 story building; and not less than 2,400 square feet in the case of a 2-story building with a minimum of 1,300 square feet being on the first floor of the 2-story building.

(d) No tree houses shall be permitted.

(e) Kit built or home built play structures shall be allowed to be located in the backyard area of a residential structure as long as written plans and drawings are pre-approved, in writing, by the ARB and are properly maintained.

7.04 Exterior Lighting. Exterior lighting shall be subject to the review and approval of the ARB.

7.05 Utilities. All electrical and telecommunications lines located upon the Property, other than those existing on the date of this Declaration, shall be installed and maintained underground unless the ARB specifically approves above ground installation of such lines.

7.06 Maintenance. All buildings, landscaping and other improvements upon individual Lots shall be continuously maintained by the Owner therefore so as to preserve a well-kept appearance, especially along the boundaries of any Lot. The Association shall have the responsibility of insuring that all such improvements are so maintained. The Association may appoint a maintenance committee to oversee and implement its responsibility and to amend and enforce the same, including the following maintenance standards.

(a) Trash. 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 approve in writing by the ARB as not to be visible from any road 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.

(b) Landscaping. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any part of a Lot and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain upon any part of a Lot, including vacant parcels. This provision shall not apply to the Developer until the last Lot is sold to an Owner other than the Developer.

7.07 Temporary Structures. No structure of a temporary character, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. No storage building of any type shall be permitted unless such building is designed as part of the main residential structure and approved by ARB. There shall be no occupancy of any dwelling until the interior, exterior and landscaping of the dwelling is completed and a certificate, or other satisfactory evidence, of completion is received and approved by the ARB. One temporary storage container, no more than sixteen (16) feet in length, shall be allowed to be located in the driveway area on a lot, to store household items, during the renovation or repair of said residential structure for no more than 90 days in a calendar year.

7.08 Fences and Hedges. Chain link or any other wire fences shall not be used. A wooden, aluminum or composite fence or privacy screen may be used with prior written approval of the ARB after design drawings and materials to be installed have been submitted to the ARB; provided that 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 and 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 intersections of the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of street line with the edge of a driveway or ally pavement. Trees shall be permitted to remain within such distances of such intersections provided the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7.09 Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than two (2) square feet, one sign of not more than six square feet advertising the property for sale or rent.

7.10 Garages. Garage openings will not be permitted on the front of the houses unless specifically approved by the ARB, where it is unavoidable in which case electric automatic door closures shall be used.

7.11 HVAC Equipment.

(a) Outside air conditioning units may not be located in the front yard of any dwelling.

(b) No plumbing or heating vent shall be placed on the front side of the roof. All vents protruding from roofs shall be painted the same color as the roof covering.

7.12 Satellite Dishes. The use of satellite dishes will be restricted to the rear of each Lot. No satellite dish will be allowed on the front or side yards of the Lots. A plan illustrating the location and the planting of trees and shrubs (hiding the satellite dish from view) must be submitted to the ARB for written approval prior to the installation. If the dish cannot be hidden from the street view then the use of a dish will be denied by the ARB. If cable television is available to a Lot, no satellite dish will be permitted on that Lot; provided that the Owner of Lot may continue to use a satellite dish which has been

installed on Lot prior to the availability of cable television.

7.13 Storage of Boats, Trailers and Other Vehicles. No motor home, boats, trailers, wrecked cars, unmaintained cars, or vehicles other than operating automobiles, pickup trucks, or vans can be parked or stored on the streets within the Property or in any location that can be seen from said streets.

7.14 Tenants. It shall be the responsibility of each Owner to ensure that any tenant of any Lot portions thereof which is owned by it or him receives a copy of the aforesaid restrictions and that every lease utilized by such Owner contain a provision therein stating that every tenancy is subject to all of the terms and provisions of this Declaration, the Articles, the By-Laws and all Rules and Regulations adopted pursuant thereto and for all costs of enforcing the same.

7.15 Enforcement. If a determination is made by the Association that any of the aforementioned restrictions are being or have been violated upon any Lot, the Association shall so notify the Owner in writing, specifying the violation. If within fourteen (14) days from such notification, the Association shall make a second determination that sufficient progress has not been made to remedy the violation. The Owner shall be liable for the cost and expense of all such actions and the Association may treat all such costs and expenses therefore as a charge which shall become a lien of the Association of the affected Lot enforceable in the manner specified in Article IV hereof. Such cost and expenses may include periodic fines assessed against the Owner by the Board until the Owner remedies the violation of these covenants and restrictions.

7.16 Noise. The homeowner shall make sure that the residents of said property shall abide by the Shelby County Commission Ordinance Number 03-12-22-11 or any subsequent version passed by the SCC.

7.17 Roofing Materials. The use of any materials for the replacement or repair of any roof other than asphalt based shingles shall require the written approval of the ARB.

7.18 Variance Requests. The ARB, in its discretion, shall have the authority to modify the requirements of Sections 7.02, 7.03, 7.08, 7.09, 7.10, 7.11, 7.12, 7.13, and 7.17 of this Article VII upon the request for a variance from such requirements by an Owner with respect to his Lot. If the ARB grants a requested variance, the nonconforming improvements subject to said request shall not be deemed to be in violation of these covenants.

2. Except as expressly modified and amended herein, all of the terms and provisions of the Declaration, as previously amended, shall remain in full force and effect and are hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

**WINDCHASE OWNER'S
ASSOCIATION**, an unincorporated homeowners
association,

By: 
Name: Charles Burkhardt
Its: President

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Charles Burkhardt whose name as President of WINDCHASE OWNER'S ASSOCIATION 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

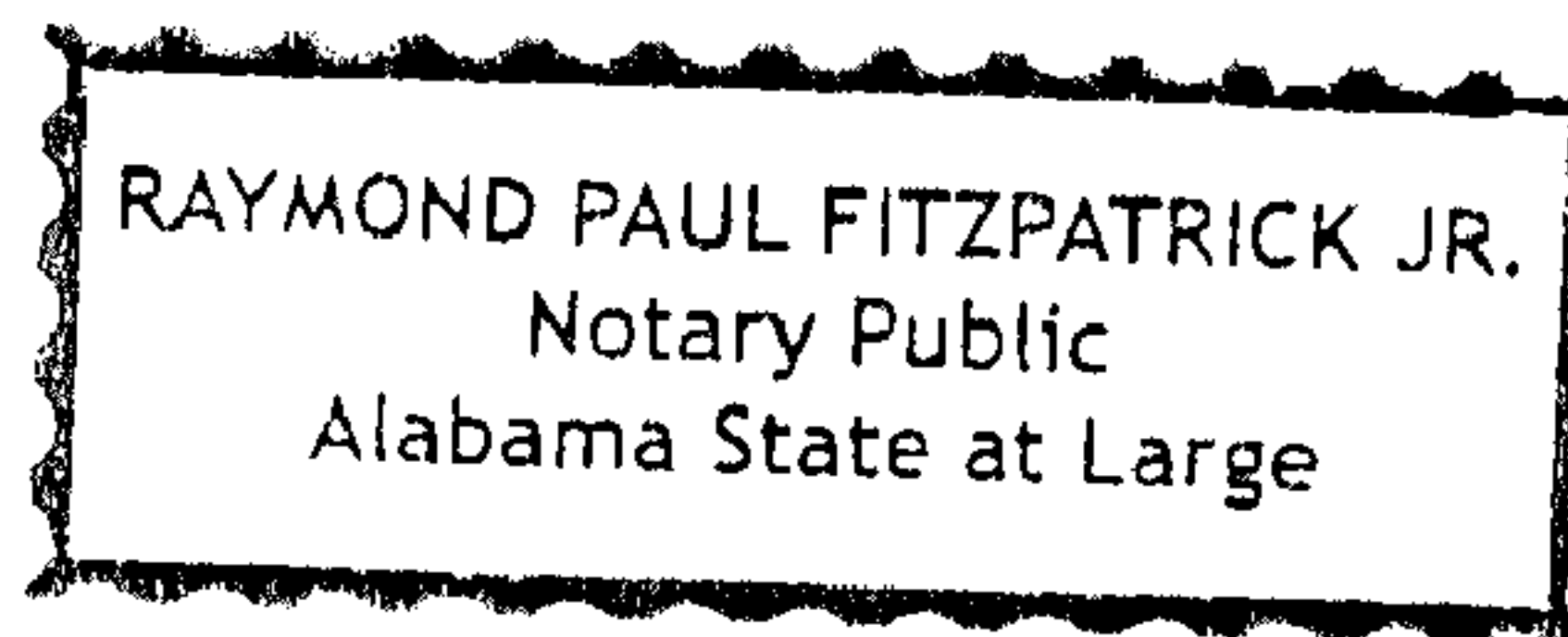
Given under my hand and official seal this 15th day of August, 2023.



Notary Public

My Commission Expires: 6/19/2027

[NOTARIAL SEAL]



Document prepared by:
Raymond P. Fitzpatrick, Jr.
1200 Corporate Dr., Suite 105
Birmingham, Alabama 35242

CERTIFICATE OF PRESIDENT

The undersigned, Charles Burkhardt, as the President of the Windchase Owner's Association does hereby unequivocally state and certify that the agreement of the requisite number of Owners in the Association was lawfully obtained to the above and foregoing Second Amendment to Declaration of Protective Covenants pursuant to a properly noticed meeting of the Owners in the Association held on August 8, 2023, at which a quorum was present.

The undersigned hereby certifies that he has personal knowledge of the foregoing and acknowledges and agrees that the foregoing certificate will be attached to the aforesaid Second Amendment to Declaration of Protective Covenants, Windchase, A Residential Subdivision.

Dated this 15th day of August 2023.


Charles Burkhardt

STATE OF ALABAMA)

COUNTY OF SHELBY)

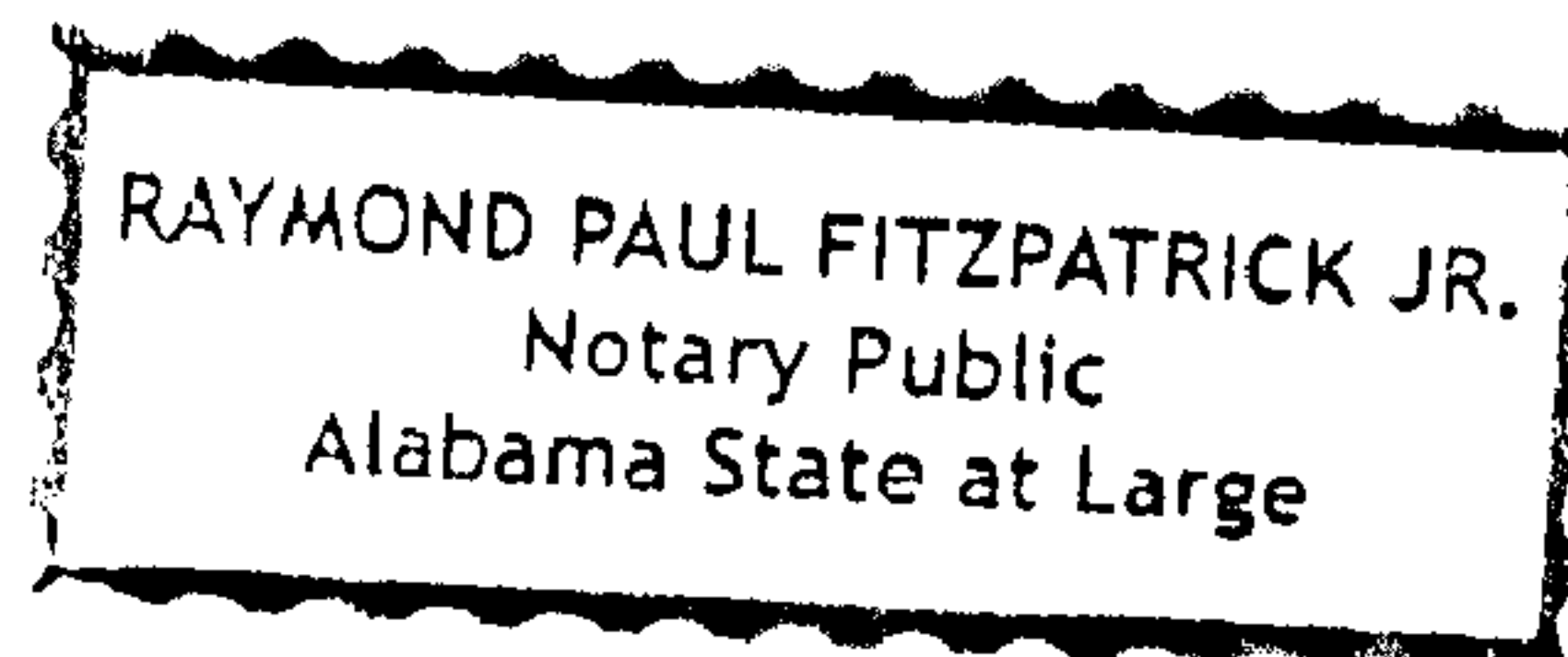
I, the undersigned, a notary public in and for said county in said state, hereby certify that Charles Burkhardt whose name as President of the Windchase Owner's Association, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such President and with full authority, executed the same voluntarily for and as the act of said Association

Given under my hand and official seal this 15th day of August 2023.


Notary Public

My commission expires: 6/19/2027

[NOTARIAL SEAL]



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
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