

DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR Recording Fee 36.00
LOTS 1 THROUGH 36 AND OPEN SPACE IN OLD HICKORY 36.00

THIS DECLARATION is made on the date hereinafter set forth by Lauderdale Homes, Inc. ("Declarant"), being the owner of the hereinafter described real property.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Florence, County of Lauderdale, State of Alabama, which is more particularly described as:

Lots 1 through 36 and the areas designated as Open Space in OLD HICKORY, a subdivision recorded in the Office of the Judge of Probate of Lauderdale County, Alabama, in Plat Book 7 at Page 34.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all the parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to "Old Hickory Homeowners Association" and its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of any common area now existing and designated as Open Space on the plat of the subdivision or which may hereafter be annexed.

Section 5. "Declarant" shall mean and refer to Lauderdale Homes, Inc., an Alabama

Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to any common area now existing and designated as Open Space in the plat of the subdivision or which may hereafter be annexed, said right and easement of enjoyment shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area, if any.

(b) The right of the Association to suspend the voting rights and right to use any common area or any recreational facilities by an Owner for any period during which any assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of any common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

Section 2. Delegation of use. Any owner may delegate, in accordance with the By-Laws, his or her right of enjoyment to any common area and any recreational facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owner. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be

exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 2011.

In the event additional residential property is annexed and new lots become subject to the Declaration of Covenants, Conditions, and Restrictions of the Association, Class B membership shall be increased (or reinstated in the event Class B membership shall have ceased) for each Lot annexed, subject to the same voting rights set forth heretofore.

ARTICLE IV

COVENANT FOR CAPITAL, MAINTENANCE AND OPERATION EXPENSES ASSESSMENTS AND LIENS THEREFOR

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and 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: (1) annual assessments, (2) special assessments for capital improvements and operation expenses, and (3) any assessment created under Article V, such assessments to be established and collected as herein provided. All of said assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. The association shall have the right to enforce all liens hereunder imposed to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures as in the case of mortgages under applicable law. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in the enforcement, foreclosure or collection thereof, shall also be the personal joint and several obligation of the person or persons who was or were the Owner of such property at the time when the assessment fell due. The personal obligation for

delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. Declarant shall not be required to pay such annual assessment as to any Lots owned by it so long as Declarant elects, at its option, to provide the maintenance and improvements called for in Article IV, Section 2. At such time as Declarant is not maintaining and providing such maintenance and improvements, it shall pay such annual assessment on Lots owned by it.

Section 2. Purpose of Annual Assessment. The annual assessment levied by the Association shall be used exclusively for maintenance and improvement of any common area, operating expenses of the Association, and the maintaining, improvement and replacing of lawns and shrubs on all Lots and any common areas including mowing, raking, seeding and planting, to the extent funds are available by reason of such annual assessments or otherwise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be FOUR HUNDRED EIGHTY AND NO/100 (\$480.00) DOLLARS per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 6% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 6% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may from time to time fix the annual assessment at an amount not in excess of the maximum and may direct the date or dates of the payment thereof in one lump sum or in installments.

Section 4. Special Assessments for Capital Improvements and Operating Expenses. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any common areas, including fixtures and personal property provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of

members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized under Section 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 50 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 50 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments, set forth in Sections 3 and 4 above, must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or such other basis as determined by the Board.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of a Lot by Declarant to an Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an office of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of any common area or abandonment of his Lot.

Section 9. Subordination of Lien to Mortgages. The lien of the assessments provided for

herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Alabama shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

EXTERIOR MAINTENANCE

(a) The Association shall, to the extent allowable by monies available from annual assessments, provide for the maintaining, replacing and improvement of lawns and shrubs on all Lots including raking, mowing, seeding and planting. In the event the need for such maintenance, replacement, or improvement is caused by or arises out of any willful or negligent act of the Owner, members of his or her family, or his or her guests or invitees, the cost of such shall be added to and become a part of the assessment to which such Lot is subject.

(b) In the event an Owner of any Lot in the Properties shall fail to maintain, restore and repair the roof, gutters, downspouts, exterior building surfaces, and other exterior improvements in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, but not the obligation, through its contractors, agents and employees, to enter upon said parcel and to repair, maintain and restore such roof, gutters, downspouts, exterior building surfaces, and other exterior improvements. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between

the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. In the event of any dispute arising concerning a party wall, or under the provisions of this Article VI, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators.

ARTICLE VII

ARCHITECTURAL CONTROL AND USE RESTRICTION

No building, fence, lawn statuary or decorations, flagpoles, mailboxes, wall or other structure or exterior surface or roof of any building or structure shall be commenced, repaired, replaced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, colors, materials and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an

architectural committee composed of three (3) or more representatives appointed by the Board. Without limiting the foregoing, such plans and specifications must include a detailed statement of the colors of any paints or materials to be used in exterior surfaces and roofs. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, as evidenced only by its written acknowledgment of receipt thereof, approval will not be required and this Article will be deemed to have been fully complied with. In any event, the Lots shall be used solely for single family residential purposes and not more than one single family residence may be erected, constructed or permitted to remain upon any Lot. No business, trade or commercial activity of any kind or character may be conducted upon any Lot. Such plans may be disapproved because of any of the following:

- (a) failure of such plans or specifications to comply with any of the Restrictions;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;
- (c) objection to the exterior design, appearance or materials of any proposed building or repairs or replacement;
- (d) incompatibility of any proposed building with existing buildings upon other Lots in the vicinity;
- (e) objections to the location of any proposed structure upon any Lot or with reference to other Lots in the vicinity;
- (f) objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed structure.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by

judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional land may be annexed and made subject to this Declaration by the Declarant without the consent of members within twenty (20) years of the date of this instrument.

Section 5. Easements. The Declarant proposes to construct on each of the foregoing Lots a town house or patio home. In the matter of the construction and completion of a town house or a patio home, certain eaves, roof overhangs and brick veneer attached to the structural walls will or may encroach over into the air space of an adjoining or contiguous Lot. There is hereby created on each of said Lots so affected an easement for said encroachments or overhangs created by said construction. In addition to the easements for each of said encroachments or overhangs, there is also granted the right to maintain and repair the same so long as said encroachments and overhangs shall and do exist. In the further event that any structure compromising a town house is totally destroyed and then rebuilt, such encroachments and easements shall be permitted in the matter of the reconstruction and the right of maintenance shall continue to exist. An easement of access is reserved over and across the roofs of all structures where reasonable required for the purpose of maintaining, repairing or constructing or reconstructing adjacent structures. Each Lot is also subject to all easements as shown on the plat of OLD HICKORY as recorded in the office of the Judge of Probate of Lauderdale County, Alabama, in Plat Book 7 at Page 34. An easement of ingress and egress is also reserved to the Declarant over and across all utility and other easements shown on the aforesaid plat for the purpose of constructing, repairing, or maintaining any town home or patio home on any Lot hereunder.

Section 7. Option of Association to Purchase. In the event the dwelling on any Lot is wholly or partially destroyed by fire, flood, act of God or any other cause or casualty and the Owner thereof does not rebuild or restore the same to like good order and condition as existed prior to such total or partial destruction within six (6) months of such destruction, then the Association shall have the right, privilege, and option to purchase such Lot at the fair market value thereof as fixed and determined by the average of three appraisals in writing, one by each of three licensed real estate brokers or appraisers licensed to do business in Lauderdale County, Alabama.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 21 day of March, 2003.

LAUDERDALE HOMES, INC.,
an Alabama Corporation

ATTEST:

Charles W. Jordan
Its Secretary

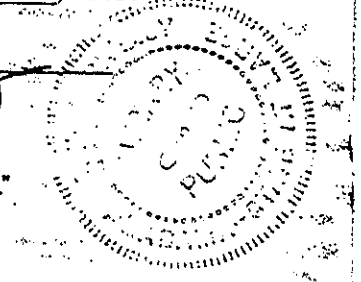
By Hillard Matthews
Its President

STATE OF ALABAMA)
)
LAUDERDALE COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Hillard Matthews, whose name as President of Lauderdale Homes, Inc., an Alabama Corporation, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of this Declaration, 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 21 day of March, 2003.

Dennis Cray
Notary Public



MY COMMISSION EXPIRES 10-23-05

This instrument prepared by
BRANT YOUNG, Attorney
Florence, Alabama 35630