

**PROTECTIVE COVENANTS**

**of the**

**RIVERCHASE TOWNHOME OWNERS ASSOCIATION, INC.**

A Corporation Not for Profit Under the Laws of the State of Alabama

As amended November, 2018

STATE OF ALABAMA     )  
COUNTY OF SHELBY    )

**RESTATEMENT OF THE  
DECLARATION  
OF PROTECTIVE COVENANTS, FOR  
RIVERCHASE TOWNHOME OWNERS ASSOCIATION**

KNOW ALL MEN BY THESE PRESENTS, that:

The undersigned, Riverchase Townhome Owners Association, Inc., an Alabama nonprofit corporation (the Association) is the owner of all that certain property more specifically described in Exhibit "A", "B", "C" and "D" which are attached hereto and made a part hereof by reference, and which is commonly referred to as:

DAVENPORT'S ADDITION TO RIVERCHASE WEST SECTORS I, II, III, & IV,  
AS RECORDED IN THE MAP BOOKS AND PAGES REFERRED TO IN THE  
ARTICLES OF INCORPORATION OF THE ASSOCIATION.

NOW, THEREFORE, these restrictions, reservations, covenants, and easements are hereby declared, adopted, and imposed upon said land, for the benefit, enhancement and protection of the landowners of said land. Unless otherwise stated, all other protective covenants regarding the above described land are declared null and void.

1. Said land, being located within that certain area of land already covered by protective covenants is hereby specifically subjected to the Declaration of Protective Covenants, Agreements, Charges, and Liens for Riverchase ("residential"), as recorded in Book 14, page 536, and as amended by Amendment 1, recorded in Book 17, page 550, in the Probate Office of Shelby County, Alabama, and the restriction imposed by the deed recorded in Book 319, page 411 in the said Probate Office.
2. No lot shall be used except for residential purposes.

3. No automobile, truck, house trailer, camper, boat, dune buggy, or any other type vehicle shall be parked or maintained on any permanent basis on the right-of-way or in front of any lot. Only vehicles used for day-to-day transportation of the property owners, their families, or invitees may be kept within the parking pad or within the area to the rear of the townhomes screened from outside view or in such other areas as are designated in the recorded maps and plot plans of the subdivision as "parking areas." No house trailers, campers, boats, dune buggies, or other inoperable vehicles or hobby vehicles may be kept or stored on the premises. Nothing in this paragraph shall preclude guests or invitees of any lot owner from parking in the front of any lot so long as such guest or invitee parks in the designated parking areas and parks only on a temporary basis. The flow of traffic on Mountain Laurel Lane and Mountain Laurel Court should be free and unimpeded at all times; therefore, no Lot Owner shall park, cause to be parked, or allow parking on the portion of Mountain Laurel Lane or Mountain Laurel Court which is adjacent to the Lot Owner's property at any time.
4. A perpetual easement is reserved for the purpose of installing and maintaining telephone and power lines and poles, anchors, and guy wires on each side of all side lot lines and extending back no deeper than twenty-five feet (25) feet. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for which improvements a public authority or utility company is responsible.
5. There is hereby reserved, created, and granted to each lot owner a non-exclusive easement appurtenant to each lot for ingress and egress for the use and benefit of the owners, parties in privity with owners, and invitees of owners, over and across the private drives and/or alleyways which pass along the sides of certain lots of the subdivision and which pass to the rear of certain lots of the subdivision, extending from the public roads (Mountain Laurel Lane and Mountain Laurel Court) to the boundary line of each respective lot where they intersect with said private

drives and/or alleyways open, clear, and unobstructed, for the free and uninterrupted flow of vehicular traffic. Said private drives and/or alleyways, shown on such maps recorded in the Office of the Probate Judge for Shelby County, Alabama, which are referred to in Section 2.1 of the Articles of Incorporation for the Association, and have been named as Limited Common Area Elements, are for the equal and mutual benefit of each and all of the respective lot owners and the reasonable cost and expense of maintaining and repairing said private drives and/or alleyways for the entire length and width as shown on the respective maps, shall be borne equally by the Lot Owners whose property is appurtenant to, and receives benefit from said Limited Common Area Elements.

**6. Assessments.**

**6.1 Affirmative Covenant to Pay Assessments.** Each Owner, by acceptance of a deed for a Lot, whether or not it should be so expressed in such deed, shall be obligated and hereby covenants and agrees to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies), in the manner set forth herein: (i) Annual Assessments or charges levied each year by the Association, (ii) Special Assessments for capital improvements, such Assessments to be established and collected as hereinafter provided, and (iii) Individual Assessments which may be levied against any Lot and the Owner thereof as a result of such Owner's or Occupant's failure to comply with the terms of these Protective Covenants. Lots owned by Developer shall not be subject to any Assessment by the Association, be it Annual, Special, or Individual Assessments. The Annual, Special, and Individual Assessments, together with interest, late charges, costs, and reasonable attorneys' fees, shall also be a charge on each Lot and shall be a continuing lien upon each Lot against which such Assessment is made, which lien may be enforced in the manner hereinafter provided.

Each such Assessment, together with interest, late charges, costs, and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due or was due, but shall not constitute a charge or lien against the Lot upon which the Assessment was made.

**6.2 Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the preservation of the appearance, value, and amenities of the Property, and in particular for the improvement, preservation, maintenance, and administration of the Common Areas, and Limited Common Area Elements, and of any easement in favor of the Association and/or the Owners/Occupants, as well as for such other purposes as are properly undertaken by the Association. No profit, gain, or other such benefit is to be derived by the Association from Assessments, but, instead, such funds shall be expended only as agent for the Owners, and no part of the net earnings of the Association shall inure (other than by acquiring, constructing, or providing management, maintenance, and care of the Common Areas or Limited Common Area Elements) to the benefit of any individual.

**6.3 Individual Assessments.** Any expenses incurred by the Association enforcing any of the provisions of these Protective Covenants against any specific Owner or Occupant shall be deemed an Individual Assessment against such Owner and the respective Lot owned by such Owner. Such Individual Assessment shall be levied by the Association and shall be specified in a notice to the Owner, which notice shall also specify the due date of the payment for the same.

**6.4 Annual Assessments.** The Association shall levy Annual Assessments in such amounts as are set by the Board, from time to time, for projected or actual expenses as the Board of Directors of the Association may deem appropriate. The Annual

Assessment for the Association shall commence on January of each year and shall be paid in advance.

**6.5 Special Assessments.** In addition to the Annual Assessments specified in Section 6.4 above, the Association may levy, at any time, one or more Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Areas, provided that any such Assessment must have the assent and approval of at least fifty-one percent (51%) of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

**6.6 Special Meeting.** Written notice of any meeting called for the purpose of taking any action authorized under Section 6.5 above shall be sent to all Owners not less than thirty (30) days, but no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners, either in person or by proxy, constituting twenty percent (20%) or more of all votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

**6.7 Amount of Assessment.** Both Annual and Special Assessments must be fixed at a uniform rate for all Lots, shall commence when such Lot is improved with a completed Dwelling, and shall be due and payable in such manner as established by the Board of Directors of the Association. The Board of Directors of the Association 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. The due date for the payment of Annual Assessments shall be

established by the Board of Directors in such notice (but such due date shall be, at a minimum, thirty (30) days from the date of such notice).

**6.8 Assessment for Expenses Related to Limited Common Area Elements.** Each Lot Owner shall be assessed and shall be liable for a proportionate share of Limited Common Area Element Expenses, and the proportionate share of Limited Common Area Element Expenses shall be the same ratio as that Lot Owner's percentage of ownership of the Limited Common Area Element. Each Lot Owner shall be assessed and shall be liable for the Limited Common Expenses in connection with the Limited Common Area Elements serving its Lot. Payment of Limited Common Expenses shall be in such amounts and at such times as determined by the Association. No Lot or Lot Owner shall be exempt from payment of its proportionate share of the Limited Common Expenses by waiver or non-use or non-enjoyment of the Limited Common Area Elements, or by abandonment of its Lot.

(a) Assessment shall be made for pursuant to this section when, in the opinion of the Association and/or Board, there is a need for maintenance, repair, or other such necessity from time to time.

(b) Limited Common Expenses are to be paid only by those Lots affected by such Limited Common Area Elements.

**6.9 Effect of Non-Payment of Assessments.** Liens: Remedies: Assessment (whether Annual, Special, Individual, or Limited Common) which are not paid on or before the due date of the same shall bear interest from and after such due date at the rate equal to the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to such Owner by law. In addition to interest, any Assessment not paid by the due date for the same shall be subject to a late charge which the Board of Directors of

the Association may from time to time establish. In the event of any Assessment or other amounts due to the Association are not paid by any owner when the same comes due, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board of Directors or through any of its duly authorized officers or representatives, may undertake any of the following remedies:

(a) The Association may commence and maintain a suit at law against the Owner for a personal money judgment to enforce all such charges and obligations for Assessments and other amounts, including the late charge and interest specified above as well as all attorneys' fees, court costs, and all other costs and expenses paid or incurred by the Association in connection therewith;

(b) The Association may enforce the lien created pursuant to Section 6.1 above and hereinafter provided. The lien created pursuant to Section 6.1 above shall secure the payment of any and all Assessments levied against any Lot or Owner, all late charges and interest as provided above as well as all attorneys' fees, court costs, and all other expenses paid or incurred by the Association in attempting to collect the Assessments and in maintaining any legal action in connection therewith. If any Assessments and other charges remain unpaid for more than sixty (60) days following the due date of the same, then the Association shall make written demand on the defaulting Owner, which demand shall state the date and amount of delinquency. If such delinquency is not paid in full within ten (10) days after the giving of such demand notice, then the Association may file a claim of lien against the Lot of such delinquent Owner, which claim shall be executed by any member of the Board of Directors of the Association or any officer of the Association and shall be filed for record in the Probate Office of Shelby County, Alabama. The lien provided for herein shall be in favor of the Association and may be



foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase at any such foreclosure proceeding. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (i) grant and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (ii) grant and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amount due from such Owner, (iii) expressly waive any objection to the enforcement in foreclosure of the lien created herein, and (iv) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any suitor action for foreclosure. No Owner may waive or otherwise be exempt from the liability to pay the Assessment provided herein.

**6.10 Lien Subordinate to Mortgage.** The lien for Assessments and other charges provided for herein with respect to any Lot shall be subordinate to the lien of any first Mortgage encumbering such Lot. No Mortgagee shall be required to collect Assessments on behalf of any Owner. The sale or transfer of any Lot shall not affect any lien retained by the Association on a Lot; provided, however, that the sale or transfer of any Lot pursuant to mortgage foreclosure or any similar proceedings shall extinguish the lien of such assessment as to payments which became due more than six (6) months prior to such sale or transfer.

**6.11 Damages.** In addition to the rights and remedies set forth above, if any Owner or Occupant (or any Owner or Occupant's contractor, family member, guest, or invitees) shall violate or attempt to violate any of the covenants and restrictions set for herein,

then the Association or the Board, jointly and severally, shall each have the right to prosecute proceedings at law for the recovery of damages against such Owner as a result of such violation or maintain a proceeding in equity against such Owner to enjoin such violation; provided, however, that the rights and remedies set forth herein shall be deemed to be cumulative of all other rights and remedies available at law or in equity. In any such proceedings, the Association or the Board, jointly and severally, shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred by any of them in such proceedings as well as interest on all unpaid amounts as specified in Section 6.9(b) above. The failure of the Association or the Board to institute proceedings for any one (1) or more violations of these Protective Covenants shall not constitute approval of the same or be construed as a waiver of any right of action contained herein for the past or future violations of said covenants and restrictions.

7. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may become any annoyance or nuisance to the neighborhood. It is hereby understood that violations of any covenant shall be considered noxious and offensive.
8. Each lot shall be conveyed as a separately designated and legally described freehold estate, subject to the terms, covenants, conditions, easements, and provisions hereof.
9. No structure of a temporary character, be it trailer, tent, basement, shack, barn, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.
10. Each Lot Owner shall keep all Lots owned by the Lot Owner, and all Improvements therein, thereon, or appurtenant to, in good order and repair, including the seeding, watering, and mowing of all lawns, pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with

such frequency as is consistent with good property management. Such maintenance and painting shall be done in a manner harmonious with the remaining dwelling units and shall not be completed in a manner, color, or design so as to disrupt the harmonious blending of the original architectural plan of the dwelling units. There shall be no outside burning of wood, leaves, or trash, except with the approval of the fire department. If in the opinion of the Association, and Lot Owner fails to perform the duties imposed by the preceding sentences after thirty (30) days' written notice from the Association to the Lot Owner to remedy conditions in question, the Association shall have the right, through its agents and employees, to enter upon the Lot in question (or upon the improvements which may be appurtenant thereto) and repair, maintain, repaint, and restore the Lot or Improvement and the cost thereof shall be a binding, personal obligation of the Lot Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question.

11. No signs of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising property for sale.
12. Easements for installation and maintenance of utilities and drainage facilities are reserved and created on the recorded map. Each lot and townhouse shall be subject to an easement for encroachments created by the declarant. A valid and continuing easement for said encroachments and for the maintenance of the same, so long as they stand and as they may be replaced, shall and does exist. In the event of damage or destruction of one or more of said townhouses and the reconstruction of same, the owners of the lots and townhouses so affected agree that minor encroachments of part of the adjacent townhouse units due to reconstruction shall be permitted and that a valid and continuing easement for said encroachments and the maintenance of same shall exist.

13. No oil drilling development operations, quarrying, or mining operations of any kind shall be permitted upon any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on any lot. No derrick or other structure designed for use in boring oil or natural gas shall be erected, maintained, or permitted in or on any lot.
14. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except dogs, cats, or other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.
15. These covenants are to run with the land and shall be binding upon all persons owning land or claiming under them, their heir, successors, and assigns for the period of fifty (50) years from the date these covenants are recorded.
16. Enforcement shall be by fines levied in accordance with the documents governing the Association, as well as by any other legal means available to the Association.
17. Invalidation of any one (1) of these restrictive covenants by judgement or court order shall in no way affect any of the other provisions hereof, all of which shall remain in full force and effect.
18. Before commencing construction or alteration on any Improvement on any Parcel, the construction or alteration which would require approval by the Architectural Review Committee of the Riverchase Residential Association (ARC), plans for said construction or alteration must be submitted to the Board of Directors for the Riverchase Townhome Owners Association as well. Once received the board will review the submitted plans and consult with the ARC for the purpose of recommending the approval or disapproval of the submitted plans.

**IN WITNESS, WHEREOF**, the Board has caused these Amendments to the Declaration of Protective Covenants for Riverchase Townhome Owners Association to be executed as of the 14<sup>th</sup> day of November, 2018.

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Paul Seery Board Member: Riverchase Townhome Owners Association

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James Bosarge Board Member: Riverchase Townhome Owners Association

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Emma M.Taylor Board Member: Riverchase Townhome Owners Association

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Melinda Burnett Board Member: Riverchase Townhome Owners Association

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Michael T. Sutton Board Member: Riverchase Townhome Owners Association