

STATE OF ALABAMA )

COUNTY OF MOBILE )

Recording Book 6136 Page 1806

**DECLARATION OF RESTRICTIONS AND COVENANTS**

**FOR**

**GRACELAND PHASE II**

KNOW ALL MEN BY THESE PRESENT, that this Declaration of Restrictions and Covenants is made, adopted, published and declared this the 1st day of March 2007, by GRACELAND, LLC, hereinafter sometimes referred to as "Owner";

**WITNESSETH:**

WHEREAS, the undersigned is the Developer of the real property in the County of Mobile, Alabama, and described as follows:

Graceland Subdivision as per plat thereof recorded in Map Book 114, Page 31 of the records in the Office of the Judge of Probate of Mobile County, Alabama.

WHEREAS, Developer is desirous of placing certain restrictions, conditions and reservations (hereinafter collectively referred to as "restrictions") upon the above described property in accordance with a general scheme or plan in order (a) to protect the owners of each lot against improper use of surrounding lots as will depreciate the value of the property, (b) to preserve, as far as practicable, the natural beauty of each lot, (c) to insure the creation of attractive, well designed, properly proportioned and appropriate homes of suitable materials with appropriate locations on said lots, (d) to insure proper building setbacks from street and lot lines, (e) to provide adequate free space between structures, and (f) in general to assure the best and most appropriate development, improvement and maintenance of the subdivision and each lot therein:

NOW, THEREFORE, Developer does hereby impose the following protective restrictions:

1. **RESIDENTIAL USE ONLY:** All Lots in the subdivision shall be known and described as residential lots. No lot may be improved, used or occupied for any purpose other than as a private residence, and there shall be only one such residence per lot. No flat, duplex, apartment houses, group apartments, or condominium, though intended for residence purposes, may be erected, or placed thereon.

2. **ARCHITECTURAL COMMITTEE:** No building or other improvement shall be erected, placed or altered on any lot in this subdivision until the building plans, specifications, and

plot plan showing the location of such building have been approved in writing as to conformity and harmony of external design with existing structures in the subdivision, as to location of the building with respect to topography and finished ground elevation and as to compliance with all other requirements of these restrictions, by an Architectural Committee composed of MARK DAVIS and TINA DAVIS, or by a representative designated by the members of said committee. If such plans and specifications are disapproved, written notice of such disapproval shall be given to the submitting lot owner in person or by U.S. Mail. All proposed building or construction plans, specifications, plot plans or related data, drawings, or requests for approval, shall be submitted to the Developer at 207 Tanner Williams Ct., Suite A, Mobile, Alabama 36608. Ph. (251) 633-2969.

3. BUILDING LOCATION: Lots 8–12 and 16–20 shall have a minimal building setback of 100' and a maximum of 125'. Lots 13–15 shall have a minimal building setback of 75'.

4. RE-SUBDIVISION: There shall be no re-subdivision of any lot or combination of lots so as to create any additional lot, and no combination of lots so as to form a lesser number of lots unless approved by the Architectural Committee of the Developer.

5. OFFENSIVE ACTIVITIES, ETC.: No trade or business activity of any kind shall be carried on or upon any lot, or in any dwelling nor shall any noxious or offensive activity be done thereon which shall be or become any annoyance or nuisance to the neighborhood. No structure, including fences, shall be erected so as to channel water on an adjacent lot; or shall any lot owner alter the topography or elevation of a lot and cause a change in the directional flow and/or quantity of drainage water from the original subdivision engineering design approved by the County Engineering Department of Mobile.

6. TRAILERS, ETC.: No trailers, mobile homes or pre-constructed buildings, basement, tent, shack, garage, barn or other outbuilding erected or placed on any lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Motor homes, campers, large trucks and trailers including horse and boat trailers, which are approved by the Architectural Committee, may be kept behind the residence. All boats must be kept on trailers in the rear yard.

7. TYPE AND SIZE OF BUILDING: No building shall be erected, altered, placed or permitted to remain on any lot in the subdivision, other than one single family dwelling, which shall be not more than two and one-half (2 ½) stories in height and shall have a heated and cooled habitable area, exclusive of basements, open porches and garages, of at least 2,000 square feet per dwelling, with not less than 1,200 square feet on the ground floor if it is more than one story in height. The roof pitch shall not be less than 8/12 on a single story residence, and shall not be less than 9/12 on residences of one and one-half or more stories. The finished floor elevation on all residences shall not be less than 12 inches above the finished ground elevation. The minimum ceiling height required on the ground floor of all homes is 9'. All residences must have an attached double garage. A detached garage or other approved outbuilding (not to be occupied as living quarters), may be erected or permitted to remain upon a lot only if the written approval of the Architectural Committee is first obtained, and a building plan, specifications, and a plot plan are all submitted to the Architectural Committee for approval before any construction begins. No garage or carport may face or open onto the frontage street nor shall the sides of such enclosure open to, or be able to be seen through, from the frontage street.

All detached buildings, including storage and utility sheds will be located at the rear of the dwelling. The architectural design, construction and material of such buildings will be subject to Committee or Developer approval. All dwellings will be completed in accordance with the documents submitted to the Architectural Committee and no portion of the improvements shall be left for future completion beyond the time provided for completion in said documents.

Vinyl siding may cover no more than 20% of the exterior walls of a single story structure, and no more than 30% of the exterior walls of a one and one-half story structure, and no more than 40% of the exterior walls of a structure of two or more stories, without Architectural Committee approval.

9. ANIMALS: Dogs, cats and other small household pets, not exceeding four, may be kept by each lot owner, provided they are not kept, bred or maintained for any commercial purpose or use and are not a nuisance, annoyance or danger to the neighborhood.

10. GARBAGE DISPOSAL CONTAINERS DISABLED VEHICLES AND EQUIPMENT: No lot shall be used as dumping ground for rubbish and all debris and trash from clearing or construction must be placed in sanitary containers or disposed of promptly. All incinerators or other containers for the temporary storage or disposal of such material must be approved by the Developer, and must be screened from frontal view. No abandoned vehicles or equipment of any kind may remain on street, in front of residence at any time.

11. MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon the surface of any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or within 500 feet beneath the surface of 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.

12. FENCES, WALLS, LANDSCAPING, MAILBOXES AND DRIVEWAYS: The only approved fencing in front of the residence is vinyl farm fencing or picket fencing with a maximum height of four (4) feet. Fencing behind the residence must be constructed of wood, vinyl, brick, or chain link. Any variations must be approved by the architectural committee. Minimal landscaping requirements must be installed within three months of completion of residential structure. Four (4) 20 gallon evergreens are required to be planted on each lot. No fuel containers of any type will be allowed above the finished grade; and any ancillary lines from the container to any structure or appurtenance will also be buried beneath finished grade or hidden from view behind the residence. Only the approved mailbox will be erected on the property. Approximate cost is \$220. All driveways are to be constructed of asphalt, concrete or other hard surfaces. The permanent driveway should be installed within 12 months of residential structure certificate of occupancy.

14. SIGNS: No sign of any kind shall be displayed to public view on any lot except one professionally letter sign of not more than four (4) square feet in size, which may advertise the property for sale or rent; except during the construction period, when one additional sign may be erected by the builder and a security service sign shall also be allowed when applicable.

15. EASEMENTS: All easements shown on the recorded plat of the subdivision are hereby adopted as part of these restrictions, and all lots in the subdivision shall be subject to such easements. The undersigned developer of the subdivision reserves unto itself and its successors

and assigns the right and easement, but not the obligation, to construct, install, maintain, repair and replace, power, gas, sewer, telephone, and other utility lines, equipment and facilities and drainage ditches, in, on, over and under the streets and road easements shown on the recorded plat of the subdivision, and to construct, install, operate, maintain, repair and replace lights, walls, fences, shrubbery, bushes and trees and other decorative or screening improvements in, on, over and under the property included within the areas designated as "DRAINAGE AND UTILITY EASEMENT", if any, with full right of ingress and egress to and from said streets and roads and easements across adjoining property; and the undersigned reserves unto itself and its successors and assigns the right to contract generally with others for the doing of any and all such things and the right to grant unto others such easements, rights and privileges as the undersigned may deem appropriate or convenient in connection therewith.

16. COMPLIANCE WITH ADEM REQUIREMENTS PRIOR TO AND DURING CONSTRUCTION: The lot owner shall be responsible for compliance with the provisions of the ADEM Storm Water Permit (NPDES) issued for the subdivision relating to the lot, specifically including the installation of all necessary erosion control items including but not limited to hay bale sediment barriers, silt fencing, temporary construction (stone surfaced) entrances, and all other required Best Management Practices designed to prevent the diversion, overflow, or by-pass of silt, sediment, or soil or debris laden storm runoff beyond the limits of said lot. Within thirty (30) days of the initial clearing of any lot, the owner of said lot shall mulch and seed the lot in a manner that will provide a ground cover. If the Developer is fined or cited for violation by ADEM due to the non-performance of this covenant, the lot owner shall indemnify and hold harmless the Developer from all cost and expense related thereto.

17. CONSTRUCTION REQUIREMENTS: All lot owners agree to begin construction of a dwelling on their individual lot or lots within a period of three years from the original purchase date of said lot or lots. All dwellings shall be completed in accordance with the plans and specifications and within twelve (12) months from the issuance date of the building permit from the County of Mobile, unless waived by written approval of the Architectural Committee. Any exceptions to this requirement will be only by written approval of the Developer. All vacant lots must be maintained by the owner.

18. AMENDMENT OR MODIFICATION OF RESTRICTIONS: Any and all of the restrictions or requirements herein set forth may be annulled, amended, or modified at any time by the Owner/Developer without the consent of the property owners or by the owners of not less than eighty percent of the lots in said subdivision. Any amending instrument shall be acknowledged by the Owner or Owners signing same and shall be filed for record in the office of the Judge of Probate of Mobile County, Alabama, provided that no amendments shall place an additional burden, restriction or requirement on any lot in said subdivision the owner of which does not join in the said amending instrument.

19. PROPERTY OWNERS ASSOCIATION: There has been formed a property owners association which is a non-profit corporation which is the GRACELAND Property Owners Association ("POA"). Each of the undersigned, developer and future lot owner(s), are and shall be members of the Association, and bind themselves and their respective heirs, personal representatives, successors to the Association. Lots 1-7 (Phase I) are voting members on all matters except concerns involving the private road (Graceland Ct.). Owners of Lots 8-20 will pay \$100 each year into a savings account to be used for future maintenance of the private road.

Each lot in the Subdivision shall represent one vote. If a lot is owned by more than one person, only one vote may be cast. If one person owns more than one lot in the Subdivision, such person shall have a vote for each lot.

20. No lot shall be conveyed, devised, leased or demised at any time hereafter except as being subject to the covenants, terms, conditions, restrictions, and limitations, herein contained, and the obligation to observe and perform the same; and whether or not it be so expressed in the deeds or other instruments of conveyance of the property, the same shall be absolutely subject to the covenants, terms, conditions, restrictions and limitations herein contained, which shall run with and be appurtenant to the land and every part thereof, as fully as if expressly contained in proper and obligatory covenants or conditions in each and every contract and conveyance of, or concerning any part of the land or the improvements to be made thereon.

21. Each property owner and future property owner acknowledges that the Mobile area is subject to approximately 60 inches of rain per year and hence this Subdivision and each lot therein is subject to heavy rainfall and surface waters flowing across said lots as a result of such rainfall. Each future owner or owners of any lot in GRACELAND SUBDIVISION acknowledges that the Developer has complied with all subdivision requirements of the County of Mobile. Each owner or future lot owner of any lot in GRACELAND SUBDIVISION, by the acceptance of a deed subject to these restrictions, does herewith concur, consent and agree that the Developer's compliance with such subdivision requirements constitutes the exercise of reasonable care.

22. Should any future owner or owners of any lot or lots within GRACELAND SUBDIVISION or any of their heirs, executors, administrators or assigns, violate or attempt to violate any of the covenants, terms, conditions, restrictions and/or limitations herein contained, any person or persons owning any real property situated in said Subdivision may prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same, to prevent such person or persons from so doing, or to recover damages for such violations or attempted violations.

23. The Developer herein expressly reserves unto itself the sole and unilateral right to amend, modify, change, cancel or annul such covenants, limitations and restrictions in whole or in part, at any time during the term of same as existing, or as may be amended, modified, changed, cancelled or annulled in accordance with the foregoing reservation. Such action on the part of the Developer is to be evidenced by an instrument executed by a duly authorized agent or partner of Developer and recorded in the office of the Judge of Probate, Mobile County, Alabama.

It is expressly reserved and stipulated herein that such actions may be taken by Developer in accordance with the foregoing authority and power, may result in any, all or part of any covenant, restriction or limitation as existing or as may be amended or changed, being either more or less restrictive or burdensome than the foregoing covenants, restrictions or limitations contained herein.

No action on the part of the Developer pursued in accordance with the foregoing reserved authority shall place an additional restriction or limitation on a specific lot previously conveyed by Developer, unless the then owner of same shall consent thereto by joining in said instrument, or by executing such other instrument as will properly evidence owner's consent, the same being subsequently recorded as set forth hereinabove.

24. TERM: The foregoing restrictions shall run with the land and shall be binding on all lot owners, or upon all parties and persons claiming under or through them, each of whom shall, by virtue of his acceptance or acquisition of title or other interest, accept and agree to be bound by and to abide by all terms and provisions of this instrument, all of which shall be and remain in full force and effect until March 1, 2027. After which time said restrictions shall automatically be extended for successive periods of ten years unless amended pursuant to paragraph 17.

25. ENFORCEMENT: If any person or persons shall violate or attempt to violate any of the restrictions contained herein, it shall be lawful for the developer or any party owning any real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such restriction and either to prevent him or them from so doing and to recover damages, which shall include a reasonable attorney's fees, for such violation. Neither the Developer nor its employees, agent or assigns or any of its partners or their representative, heirs, personal representatives, successors and assigns (jointly referred to as Developer) shall be liable to any lot owner or lot owners in GRACELAND SUBDIVISION for the manner in which the Developer exercises, or for its failure or refusal to exercise, any right or authority herein granted to Developer whether discretionary or not; for the failure or refusal of any lot owner to comply with any of the provisions hereof; or the failure or refusal of the Developer to enforce any of the provisions hereof against any lot owner.

26. SEVERABILITY: Invalidation of any one of the covenants by judgment or court order shall in no wise effect any of the other provisions which shall be and remain in full force and effect.

IN WITNESS WHEREOF, GRACELAND SUBDIVISION has caused this instrument to be executed in its name and on its behalf by its officers thereunto duly authorized on the date set out in the acknowledgement below.

By: \_\_\_\_\_(SEAL)  
TINA G. DAVIS, Member

STATE OF ALABAMA )  
COUNTY OF MOBILE )

I, the undersigned, a Notary Public in and for said County in Said State, hereby certify that TINA G. DAVIS, whose name as member of GRACELAND, LLC, 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 the instrument, he, as such member and with full authority, executed the same voluntarily, for and as the act of said GRACELAND, LLC, on the day of the same bears date.

Given under my hand and notary seal on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_