

**PROTECTIVE COVENANTS FOR SMOKE RISE
BLOUNT COUNTY, ALABAMA
SECTOR ONE (1)**

Whereas, Smoke Rise Development Corporation, a corporation, is the owner of the lands comprising Smoke Rise, Sector One, situated in Blount County Alabama and being a part of Sections 26,27, 34 and 35 Township 13 South, Range 3 West, and Section 2, Township 14 South, Range 3 West, Blount County, Alabama and

Whereas, Smoke Rise, Sector One has been subdivided into 170 tracts being numbered consecutively from 1 through 168, and 13A and 98A, respectively, plat of the same dated the 17th day of December, 1968, as prepared by Raymond Shackelford Registered Land Surveyor, Registration No 4092 and recorded in map or plat book 2A at page 297, in the office of the Judge of Probate Blount County, Alabama and

Whereas, it is desired by said owner, before any of said lots or parcels of ground in said subdivision shall be sold or conveyed, to fix and establish certain restrictions as to the use and enjoyment of such lots and properties in said plat, except as to Tracts 1, 2, 30, 31 and 32, which are specifically excluded from the provisions of these Protective Covenants, for the protection of all owners of said properties or tracts;

Now therefore, the undersigned Smoke Rise Development Corporation, a corporation, does by these presents, establish and adopt Protective Covenants or Restrictions as to the future use of the tracts or parcels of land embraced in said plat, except as to Tracts 1, 2, 30, 31 and 32, as hereinabove excepted, and does grant to the future owners of any party of the land embraced in said plat, the right to enforce said restrictions as herein after set forth:

1. LAND USE AND BUILDING TYPE

No tract shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any tract other than the detached single-family dwelling not to exceed two stories in height. Permitted will be horticultural and agricultural uses and garden, greenhouses and structures incidental thereto customary to residential occupancy provided no sales of the products are to be made on the premises, but not including commercial animal, livestock or poultry farms or kennels. Permitted will be accessory structures (such as private garages, servant houses, stables, summer houses and guest houses) customarily incidental to residential occupancy: provided that the servant houses and summer and guest houses shall be permitted only as accessory to the single-family dwellings; and provided further that any stable, or other structure housing livestock, shall be

located to the rear of said lot. The permitting of livestock as provided herein, is limited to non-commercial use of said tract in connection with livestock, and no horses will be permitted to be kept on any tract less than 2.5 acres in area. Accessory structures incidental to other permitted uses shall be located so as to conform to front and side building set back line requirements established for such uses, and shall be located to the rear of said tract.

2. ARCHITECTURAL CONTROL

No building shall be erected, placed or altered on any lot or any tract until the construction plans and a plan showing the location of the structure has been approved by the Architectural Control Committee, (as established in Section 9), as to the quality or workmanship and material harmony of external design with existing structures, and as to the location with respect to topography. Approval shall be as provided in Section 10.

3. QUALITY AND SIZE

It is the intention and purpose of these covenants to assure that all dwellings within each of the five different areas comprised of tracts as set out in sub-paragraph "a" through "e" hereafter, shall be of a quality of workmanship and materials substantially the same for the tracts in each of said respective areas and furthermore, to insure that the requirements as to the size of the dwellings are maintained. The following minimum requirements are incorporated herewith for the respective areas including each tract as set out in paragraph "a" through "e" hereafter, are as follows:

- a. The ground floor living area of the main structure, exclusive of one story open porches and garages, shall be not less than one thousand six hundred fifty (1650) square feet for tracts 33 through 64, inclusive
- b. The ground floor living area of the main structure, exclusive of one story open porches and garages, shall be not less than one thousand five hundred (1500) square feet for tracts 8, 10, 12, 14, 15, 16, 18 through 22 inclusive, tracts 24 through 29 inclusive, and tracts 65 through 72, inclusive.
- c. The ground floor living area of the main structure, exclusive of one story open porches and garages, shall be not less than one thousand three hundred fifty (1350) square feet for tracts 3 through 7, inclusive, tracts 9, 11, 13, 13A, 17, 23, tracts 73 through 98 inclusive, tract 98A, tracts 99 through tract 102 inclusive, tracts 104, 106, 108, tracts 110 through 114 inclusive, tract 116, 118, 120, tracts 122 through 145 inclusive, tracts 167 and 168.
- d. The ground floor living area of the main structure, exclusive of one story open porches and garages, shall be not less than twelve hundred (1200) square feet for tracts 103, 105, 107, 109, 115, 117, 119 and 121.

e. There is no restriction on the minimum area for the ground floor living area for the main structure on tracts 146 through 166, inclusive. All other protective covenants and restrictions contained herein shall apply to said tracts other than the minimum footage requirement for the ground floor living area of the main structure as herein provided in this sub-paragraph.

f. The minimum requirements as established in paragraphs "a" through "e", above may be waived by the Architectural Control Committee for special purposes houses if of unusual and unique design.

g. All structures erected on any tracts covered by these restrictions and protective covenants shall be of new materials and built in good and workmanlike manner and the exterior of no structure shall consist of concrete block or novelty sidings. All structures shall be kept in good repair and condition and shall be maintained so as to prevent an unsightly appearance and condition

4. BUILDING LOCATION

No building shall be located on any lot nearer than 50 feet to the front line and no building shall be erected on any tract nearer to the side tract lines than 25 feet. For the purpose of this covenant, eaves, steps and open porches shall not be considered a part of the building, provided, however that this shall not be construed to permit any portion of the building on a lot to encroach upon another lot or tract. Right is reserved in the Architectural Control Committee to waive minor violations of the restrictions set forth in this paragraph.

5. EASEMENTS

Smoke Rise Development Corporation reserves the right to grant easements for the installation and maintenance of utilities along the public roads as shown on the recorded plat.

6. NUISANCES

No noxious or offensive activity shall be carried on upon any tract, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No commercial establishments, such as commercial home shops, automobile repair shops or storage use shall be permitted at anytime upon any tract.

7. TEMPORARY STRUCTURES

No structure of a temporary character, house trailer, basement, tent, shack, garage, barn or other out-building shall be used on any tract at anytime as a residence, either temporarily or permanently.

8. FURTHER SUBDIVIDING

No tract may be subdivided or reduced in size by voluntary alienation, judicial sale or other proceedings by any lot or tract owner, provided however that Smoke Rise Development Corporation, reserves the right to sell a part of any tract for a homesite so long as the part so sold contains not less than one acre and there remains not less than one acre left in the original tract; and provided further, that any lot or tract owner may sell a portion of his lot or tract to an adjoining lot or tract owner so long as there remains not less than one acre left in the original tract; and provided further that the owner of any tract or lot containing 4 acres or more in area, may subdivide his lot or tract to create one additional homesite of not less than 1 acre in area and that there shall remain not less than 2 acres in the original lot or tract. In no event shall any lot or tract consist of more than 2 homesites.

9. ARCHITECTURAL CONTROL COMMITTEE

The Architectural Control Committee is composed of Leslie W. Kelly, Noel C. Turner and Hugh A. Nash. A majority of the committee shall control and may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining member or members shall have full authority to designate a successor, or successors. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

10. PROCEDURE

The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required, and related covenants shall be deemed to have been fully complied with.

11. LANDSCAPE

No destruction of the natural growth on any lot shall be permitted (except for thinning) and except as may be necessary to be removed in order to carry out uses permitted by these covenants; provided, however, that no timber shall be cut for commercial purposes.

12. GARBAGE AND REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean sanitary condition. Trash and debris may be deposited in area designated and provided by Smoke Rise Development Corporation.

13. RIGHT TO REPURCHASE

Smoke Rise Development Corporation, a corporation hereby reserves the right to repurchase any lot (improved or unimproved) from any person or persons at a price not less than that which said person or persons have been offered by a bona fide purchaser and which the lot or tract owner is willing to accept. The right to repurchase shall run for ten (10) days from the time Smoke Rise Development Corporation, a corporation, has received in writing from any seller notice of intent to sell, stating the sales price, terms of sale, and the name of purchaser or purchasers. The right to repurchase shall be subject and subordinate to the lien of any existing valid mortgage upon any such lot or tract, which lien shall not be subordinated or otherwise affected or disturbed by such right; nor shall such right to repurchase affect the title thereto obtained through or after foreclosure of any such mortgage.

14. TERM

These covenants are to run with the land and shall be binding on all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or part.

15. AMENDMENT

Smoke Rise Development Corporation, a corporation, reserves the right to amend or alter these covenants at such time as it is deemed, in its unrestricted and sole discretion to be in the best interest of the property owners.

16. ENFORCEMENT

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any protective covenants, either to restrain violation or to recover damages.

17. SEVERABILITY

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

AMMENDMENT TO PROTECTIVE COVENANTS SMOKE RISE BLOUNT COUNTY SECTOR ONE

Whereas, Smoke Rise Development Corporation, a corporation being the owner of the lands comprising Smoke Rise Sector One, situated in Blount County, Alabama, a map or plat of which is recorded in map or plat book 2-A, page 297, in the office of the Judge of Probate, Blount County, Alabama did heretofore adopt Protective Covenants and Restrictions for said development as shown by instrument dated January 3, 1969, filed for record January 6, 1969 in deed book 193, page 429, in the office afore-said and

Whereas said corporation did reserve the right to amend or alter said covenants at such time as it deemed it necessary in its unrestricted and sole discretion, to be in the best interest of the property owners of the property located in said Smoke Rise, Sector One and Whereas, as of the date hereof Smoke Rise Development Corporation is the sole owner of the lands comprising said Smoke Rise, Sector One and does deem it to be in the best interest of the property owner of said lands to alter or amend the covenants by adding the following restriction and condition hereinafter set out

Now, therefore, the premises considered the undersigned Smoke Rise Development Corporation, a corporation, does by these presents hereby amend the Protective

Covenants for Smoke Rise, Sector One, Blount County, Alabama as recorded in deed book 193, page 429 by adding the following paragraph , viz:

12A. Septic tanks and wells on each of said tracts shall be located and installed according to recommendations and requirements of the State Health Department, and shall be subject to inspections for proper compliances there-with by the Blount County Health Department. All other Protective Covenants except as amended hereby shall remain in full force and effect.