

DEED 94 - P PG 106

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

RESTRICTIONS FOR  
WOODFIN RIDGE PHASE V

THIS DECLARATION is made this the 18<sup>th</sup> day of September 2009, by Newman & Sims Development, Inc., hereafter called the "Developer".

WITNESSETH

WHEREAS, Newman & Sims Development, Inc., is a Developer and Owner of certain real property described on Plat recorded in Plat Book 164 on page 550, hereafter known as, Phase V (lots 319 - 407). Woodfin Ridge desires to create a residential community, to provide for the preservation of the values and amenities of said community, and, to this end, desires to subject the real property described in Phase V and shown on Plat, to the covenants, restrictions, easements, charges, and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof,

NOW, THEREFORE, Developers declare that the real property described on Plat known as Woodfin Ridge, Phase V, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens (sometimes referred to as "Covenants and Restriction") hereafter set forth.

ARTICLE 1

ARCHITECTURAL REVIEW COMMITTEE:

1. PURPOSE AND APPOINTMENT: In order to enhance the aesthetic quality of the Property, protect the natural beauty of the environment, secure and enhance confidence and security to owners and nurture tasteful and well appointed improvements, Developer shall establish an Architectural Review Committee. The persons who shall serve on the Committee shall be appointed by the Developer for such terms and under such conditions as shall be determined exclusively by the Developer. The persons serving on the Committee are not required to own property in the development, nor are they required in any way to be affiliated with it. The primary function of the Committee shall be to review, approve or disapprove final construction plans and proposals for improvements upon the property. The Committee shall consult and advise the Owners, their architects, contractors or builders concerning the merits of the construction plans and recommend, if required, any changes or modifications which may be necessary for the plans to meet approval.

2. AUTHORITY: Subject to the ultimate control of the Developer, the committee is vested with legal authority by the Developer to enforce the terms of this Declaration and to prevent any improvements which would detract from the aesthetic quality of the development or tend to diminish property values, or which the Committee



otherwise deems contrary to the best interests of the development, even if based solely on aesthetic reasons. The Committee shall have broad, flexible discretion in carrying out its duties. The Committee shall have authority: (a) to control, approve and disapprove all changes to the property, including, but not limited to, grading, clearing of the lot, tree and vegetation removal, siting of the improvements and landscaping; (b) to adopt and implement building and design standards; and (c) to apply and enforce the terms of this Article and any other provision hereof relating to construction of improvements upon the property.

3. BUILDING, DESIGN AND LANDSCAPE GUIDELINES: The Architectural Review Committee reserves the rights in its sole discretion to issue building, design and landscape guidelines for the purpose of assisting owners proposing to build improvements upon the property. Such guidelines would be followed by the Committee in its effort to carry out its duties. Such guidelines may at the sole discretion of the Architectural Review Committee be amended from time to time.

## ARTICLE II RESTRICTIONS:

1. RESIDENTIAL USE: All lots shall be used only for residential purposes and only one single-family residence may be erected on any lot.

2. WRITTEN APPROVAL REQUIRED: Except as otherwise stated herein, no home, garage, carport, driveway, playhouse, fence, wall, swimming-pool, antenna, fuel tank, tennis court, garbage receptacle, clothesline, mailbox, nor any other structure or improvement, shall be commenced, erected or maintained upon the property, nor shall any exterior addition to any existing structure or change or alteration thereto be done, until complete final plans and specifications thereof showing the nature, kind, shape, height, materials, basic exterior finishes and colors, site location, floor plans and all elevations on all sides of the structure, containing the names of the builder or contractor and the owner and have been submitted to and approved in writing by the Committee.

Approvals shall not be effective for construction commenced more than eighteen (18) months after the date of such approval. Disapproved plans shall be accompanied by a reasonable statement of terms found unacceptable. In its sole discretion, the Committee may mark the plans "APPROVED" but note in writing upon such plans that the approval is given subject to the incorporation of specified modifications or changes in the improvements, which modifications and changes must be followed and completed by the owner. One copy of such approved or disapproved plans shall be returned to the owner, and the remaining copy shall be permanently held in the records of the Company.

3. **BUILDING STANDARDS:** All construction and improvements must meet or exceed the minimum residential building standards set forth in various Codes and publications of the Council of American Building Officials for One and Two Family Dwelling Units, or of any successor organization. Including all those applicable to buildings, electricity, plumbing, mechanical, and fire prevention and safety. In the absence of any such Codes or publications or with respect to any proposed improvements upon the property for which, in the discretion of the Developer, standards or guidelines should be adopted, the Developer shall have authority to adopt and enforce such standards and guidelines as are necessary and reasonable to assure the continued consistent development of the property. No home may be constructed or maintained so as to have a ground floor heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than two thousand (2,000) square feet in the case of a one story or sixteen hundred (1,600) square feet on the ground level in the case of a two story. The minimum pitch of the roof of each dwelling of other approved structure shall be 8/12, and shall be covered with Architectural style Fiberglass Shingles, Tile or any material approved by the Developer. No attached garage facing the street will be allowed unless approved by the Developer.

4. **BUILDING LINES:** All buildings must be set back from the front a minimum of twenty (20') feet from the front lot line, a minimum of five (5') feet each side line and thirty (30') feet from the rear lot line. The Developer reserves the right to allow building set back variances as needed. The Developer is to approve the exact location of all houses on lots for construction. This Committee may grant a waiver in reduction in this requirement upon application and for good cause shown.

5. **BUILDING MATERIALS:** Exterior finished to be Brick, Stone, Stucco, or Hardy Plank, or Wood. Any other must be approved by the Developer or its nominee. Concrete blocks, cement bricks, or concrete walls shall not be used in the construction of any building, garage or bobby-type/storage building unless the exterior of same is faced with brick, stone, stucco or some other material approved by Developer or its nominee. No asbestos shingles or asbestos siding shall be used for the exterior of any dwelling or other structure. Vinyl may be approved for boxing and trim only.

6. **FENCING:** Fencing shall not be erected until the design, height, materials and location have been approved in writing by the Committee. No chain-link or similar fencing shall be allowed anywhere in the development. No lot owner or successor in title shall be entitled to assert the defense of estoppel as to any fence which does not meet the requirements of this paragraph. No fence shall be erected which interferes with, damages, or obstructs the installation maintenance or repair of underground utility lines, or on any portion of any lot which is subject to the golf course easement hereinafter described. The lot owner shall be fully liable for any and all damage to utility lines resulting from erection of a fence or other improvements, even though approval of the fence or other improvements has been properly obtained.

7. GRADE CHANGES AND LANDSCAPING:

A. The established grade of a lot is not to be changed by any individual so as to adversely affect an adjacent property owner or owners. All major site work and grading shall be approved by the Developer. Each lot owner and his contractor, subcontractors and other agents shall take full responsibility for controlling surface water run-off and sediment that may adversely affect any other property or the golf course.

B. The completion of improvements upon a lot shall include the landscaping and sod throughout the entire yard and the planting of shrubs and/or decorative plants or bushes along the front elevation of the dwelling with all shrubs and yard being irrigated.

8. DRIVEWAY REQUIREMENTS: All driveways shall be constructed of concrete, pavers or other material approved by the Architectural Review Committee and shall be maintained by the owner of a lot in a good state of repair and suitable appearance. Where driveways from a lot intersect with the public street, said driveway will abut the existing "rolled" curb, thereby keeping the "rolled" curb in tact and undamaged. If during construction or otherwise, the curb or pavement adjacent to a construction site is broken, removed, or otherwise damaged, the owner of the lot upon which such construction or work is being done shall bear the cost of replacing or repairing such damage to the satisfaction of the Developer.

9. SEWAGE: The Spartanburg Sanitary Sewer or its successor shall dispose of all sewage. No lot shall be approved for a septic tank.

10. SWIMMING POOLS: The Architectural Review Committee prior to construction must approve all swimming pools as to location and specifications. Individual property owners are responsible for meeting all safety regulations as required by law or by the insurance industry.

11. ANTENNAE/SATELLITE DISHES: Radio, television or other antennae may not be placed on any lot unless the location, concealment and size of such equipment is approved in advance by the Architectural Review Committee.

12. COMPLETION OF CONSTRUCTION: The exterior of all homes and other structures, site work and substantial compliance with landscaping plans must be completed within eighteen (18) months of the start of construction unless such completion is impossible or would result in great hardship to the owner or builder due to strike, fires, national emergency or natural calamity. No structures may be temporarily or permanently occupied until the exterior thereof has been completed.

13. TEMPORARY STRUCTURES: No structure of a temporary character shall be placed upon any portion of the properties at any time; provided, however, that this prohibition shall not apply to shelters used by contractors during the construction of any home, or to shelters maintained by the Developer of the Association. It is to be clearly understood that temporary shelters, tents, recreational vehicles, and so forth, may not at any time be used as temporary or permanent residences or be permitted to remain on any portion of the properties after completion of construction thereon.

14. TREES: No trees measuring eight (8") inches or more in diameter at a point one (1') foot above the ground level nor any flowering tree may be removed nor may any major clearing of small trees be performed without the approval of the Architectural Review Committee. Excepted here from shall be damaged trees as determined by the Architectural Review Committee or the Association or trees which must be removed because of an emergency, or to prevent a potentially dangerous situation.

15. MAINTENANCE OF VACANT LOTS: Every owner of an unimproved lot shall keep such property free of debris and unsightly underbrush, weeds or other unsightly vegetation. In the event that the Committee deems that the lot or tract is being maintained in violation of this paragraph and that such violation should be corrected, the Committee shall give reasonable notice to the Owner to correct the appearance of such lot or tract. If after thirty (30) days, such Owner has failed to correct same, the Committee may enter upon the property to correct its conditions and assess the Owner for the costs thereof, which assessment may be filed as a lien against such lot or tract, as provided therein.

16. NO SUBDIVISION: Unless approved in writing by the Committee, no lots shall be subdivided, nor shall the boundary lines of any such lot or tract be changed. Two (2) or more lots may be combined for the purpose of creating a larger lot, but no portion of any such combined lots may be subdivided or sold without written approval of the Developer; provided, however, that this provision shall not be interpreted to prohibit the transfer of any whole lot unless improvements have been constructed on such lots combined to form a larger lot. Any permitted subdivision or combination of lots shall not diminish the extent and quality of easements or rights affecting such lots. The Developer reserves the right to replat any lot or tract still owned by the Developer and shown upon recorded plats of the property in order to modify the boundary lines and to take such other steps reasonably necessary or desirable to make such re-platted lot or tract suitable and fit as a building site to include, but not be limited to, the relocation of easements, walkways, right of way, roads, bridges, parks, recreational facilities and other amenities to conform to the new boundaries of said re-platted lots; provided, however, that no lot originally shown on a final recorded plat of the property is reduced to a size more than ten (10%) percent smaller than the smallest lot shown on each plat.

17. NO COMMERCIAL ACTIVITY: No industry, business, trade, occupation or profession open to the general public, whether commercial or otherwise, shall be conducted, maintained or permitted on any part of the property.

18. LANDSCAPE & MAINTENANCE: All owners shall be required to maintain their lots and any improvements thereon at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the subdivision or the surrounding property. Vegetable or ornamental gardens, and sandboxes or other children's play equipment shall be located only in the rear yard of any lot.

19. FUEL TANKS: All fuel tanks or containers shall be buried underground in a manner consistent with normal safety precautions and in accordance with the rules and regulations of appropriate governing bodies, agencies, and the South Carolina Department of Health and Environmental Control. No fuel tanks, except those commonly used with gas barbecue grills, are permitted above ground.

20. MAIL RECEPTACLES: All homeowners are required to have the same style Mailbox, which has been designed and developed by the Developer of the subdivision. Mailbox to be paid by the homeowner.

21. EROSION CONTROL, CONTAMINATION: Prior to proceeding with any activity which may create erosion, siltation or related surface disturbances, preventive measures must be in place that provide for the prevention and control of same. Such measures may include, by way of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, silt fences and temporary ground cover to hold the soil until permanent ground cover can be established. No activity which results in contamination of or damage to the Property shall be conducted on any portion of the Property, and each Property Owner undertaking activities involving surface disturbance shall be liable for all resulting damages from such activity and for restoration of all property damages as a result of such activity.

22. PROHIBITED ACTIVITIES: No manufacturing or production activities or any other activity that shall cause incremental traffic by the general public shall be permitted on the Property. This includes, without limitation, commercial horse training/boarding operations. Business and professional Property Owners may use their residence as an ancillary facility to an office established elsewhere so long as such use does not cause incremental traffic by the general public. No noxious or offensive trade or activity shall be carried on upon property, nor shall anything be done thereon tending to cause danger, embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants, animals, device or thing of any sort whose numbers, normal activities or existence is in any way noxious, dangerous, unsightly or unpleasant that may diminish or destroy the enjoyment of other property in the neighborhood by the Property Owners. Cattle, swine, goats, poultry, fowl or exotic animals are not permitted. The

storage of rubbish, debris, junk, post construction building materials, or collectibles shall not be permitted on the Property.

23. SERVICE YARDS: All garbage receptacles, heat pumps, water pumps, fuel tanks, permanent generators, clothes lines, wood piles, and other unsightly objects must be placed or stored behind landscape, fences or screened-in areas to conceal them from view from surrounding roads and adjacent properties.

23. NUISANCES AND OFFENSIVE ACTIVITIES: No nuisance or other noxious, offensive, unsightly or unsanitary activity or condition shall be conducted or allowed to exist on any lot or the adjoining street or streets.

24. SIGNS: No owner shall display or cause or allow to be displayed to public view any sign, placard, poster, billboard or identifying name or number upon any residence except as may be allowed by the Committee. No builder or real estate agency's sign may remain on a lot for more than thirty (30) days after completion of the house or the sale of the home or sale of a lot. No signs are allowed on common areas without specific permission from the Developer.

25. RECREATIONAL PROPERTY: Any camper, boat, trailer or vehicle, or any items not in daily use must be stored behind the closed doors or the garage. No motorcycles, motorbikes, mini bikes, go-carts or other similar vehicle and shall be operated on any lot or on the golf course or cart path. No inoperable motor vehicle, wrecked vehicle, junk car or truck, unsightly vehicle, or motor vehicle not currently licensed shall be parked in the street right-of-way or be kept on any lot in the subdivision unless stored in an enclosed garage. Also, no buses, trucks or trailers other than pickup trucks not to exceed one (1) tone in size, shall be parked on a lot or in the street right-of-way, except for loading and unloading. No bicycles permitted on golf course or golf course paths.

26. PORTABLE OR METAL BUILDINGS PROHIBITED: Portable buildings, metal storage buildings or other similar off-site constructed storage buildings are prohibited to be placed or remain on any lot.

27. SWING SETS AND SIMILAR STRUCTURES: Swing sets, sandboxes, gym sets and any such similar devices or structures primarily for children's use and enjoyment must be located behind the rear corners of the dwelling.

28. PETS: No animals shall be kept except that cats, dogs, rabbits, hamsters or caged bird may be kept in reasonable numbers as pets. All pets shall be kept in fenced areas or on leashes.

29. PARKING: All owners and residents must make provisions for off-street parking of individual vehicles.





covered by the easement; (2) no golfer or caddie shall spend an unreasonable amount of time upon the easement area; and (3) no golfer or caddie shall commit a nuisance nor engage in any annoying, disturbing, or boisterous conduct. Notwithstanding the foregoing, Newman & Sims Development, Inc. and Woodfin Partners, LLC. may in its discretion impose more restrictive rules and regulations regarding the playing and recovery of balls on property adjacent to or near the golf course.

#### **ARTICLE IV CLUB MEMBERSHIP:**

1. MINIMUM MEMBERSHIP: Each home owner/land owner will be required to be at least a social member of the club. The social membership fee will be the current rate that is charged by the Club. This membership will include amenities such as pool, tennis, clubhouse, etc. This is not a golf membership.

2. MULTIPLE LOT OWNERS/BUILDERS: Multiple lot owners or builders will not be required to activate memberships until house or lot is sold, up to a one (1) year period. Approval in writing from the Developer may extend this time period where necessary.

#### **ARTICLE V MEMBERSHIP AND VOTING RIGHTS:**

A. MEMBERSHIP: Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity, who holds such interest as a security for the performance of an obligation, shall not be a member.

B. VOTING RIGHTS: The Association shall have two (2) classes of voting

Membership as follows:

CLASS A: Class A Members shall be those Owners defined in Article V A with the exception of the Developer. Class A members shall be entitled to one (1) vote for each lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

**CLASS B:** Class B members shall be the Developer and shall be entitled to nine (9) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either one of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in Class A membership equal to the total votes outstanding in Class B membership; or
- (b) January 1, 2015.

**ARTICLE VI**  
**PROPERTY RIGHTS IN COMMON PROPERTIES:**

**A. CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS:** The Developer for each lot owned by it within Woodfin Ridge Phase V hereby covenants and each owner of any Lot by acceptance of a deed to a Lot within Woodfin Ridge Phase V, whether or not is shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the Association:

- (1) Expenses for the maintenance, upkeep and improvement of the Common Properties.
- (2) Payment for services in connection with the maintenance, upkeep, and improvements of the Common Properties, including utilities, taxes, water usage and other reasonable and necessary expenses.
- (3) Maintenance, upkeep, repair and/or replacement of the sprinkler system within the Common Properties.
- (4) Maintenance, upkeep, repair and/or replacement of all roads within the subdivision.
- (5) For the payment of services for any street lighting undertaken and accepted by the Association.
- (6) For the payment of expenses related to the upkeep, maintenance and replacement of signs identifying the subdivision, containing street names or other safety signs, if any.

- (7) For any other purpose, cost or expense, including management fees reasonably related to the performance of any duty or responsibility to the Association as determined by the Board of Directors of said Association in accordance with the Bylaws or these restrictions.

**B. BASIS AND MAXIMUM OF ANNUAL ASSESSMENT:** Beginning January 1, of each year the annual assessment shall become due. The Developer, until the Board of the Association has been duly elected and thereafter the Board of the Association, shall after consideration of current maintenance cost and future needs of the Association, fix the assessment for any year at an amount necessary to operate the association in accordance with acceptable business practices and guidelines set forth in this declaration. Lots owned by the Developer shall be exempt from annual assessments until such time as ownership is transferred to any other party or until the dwelling on the lot is occupied. Such exemption shall not affect the Developers voting rights in the Association. The developer shall fund such amount necessary to pay approved expenses in excess of the amount collected by the Association until the date Class B membership ceases.

**C. SPECIAL ASSESSMENT FOR CAPITAL IMPROVEMENTS:** 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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, 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, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**D. CHANGE IN BASIS AND MAXIMUM OF ANNUAL ASSESSMENT:** Subject to the limitations in paragraph B above, and for the periods therein specified, the Association may change the maximum and basis of assessments fixed by paragraph C hereof prospectively for any such period provided that any change 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, written notice of which shall be sent to all members at least (30) days in advance and shall set forth the purpose of the meeting.

**E. QUORUM OF ANY ACTION AUTHORIZED UNDER PARAGRAPH D AND E:** The quorum required for any action respecting authorized by paragraph D and E hereof shall be the Members present at a meeting duly called and convened pursuant to paragraph D and E hereof.

**F. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS:**

**DUE DATES:** The annual assessments provided herein shall commence January 1 of each year. The annual assessments provided herein shall begin and become due upon the transfer of the first lot and on January of each year thereafter. Until this time, the Developer agrees to maintain the Common Properties in a good state of repair and operation. The due date of any such special assessment under paragraph 36D hereof shall be fixed in the resolution authorizing such assessment. At the initial closing of the lot sold by the Developer, the pro-rated portion of any annual assessment shall be collected from the buyer at closing and paid to the Association.

**G. DUTIES OF THE BOARD OF DIRECTORS:**

The Board of Directors of the Association shall fix the date of any special assessment and at least thirty (30) days in advance of the due date of any assessment prepare a roster on the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment therein stated to have been paid.

**H. EFFECT OF NON-PAYMENT OF ASSESSMENTS; THE**

**PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF THE**

**ASSOCIATION:** If the assessments are not paid on the dates when due (being the dates specified in paragraph F above), then such assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, becoming a continuing lien upon the property, which shall bind such property in the hands of the Owner, his heirs, devisees, Personal Representatives, successors and assigns. The personal obligation for the statutory period, but such personal obligation shall not pass to his successors in title unless expressly assumed by them. Such successors in title do, however, take the title subject to any outstanding lien for assessments. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the delinquency date at a rate on one and one-half (150%) percent per month. (ANNUAL PERCENTAGE RATE-18%) from the delinquency date. The Association may bring an auction at laws against the Owner personally obligated to pay the same on an action to foreclosure the lien against the property. And there shall be added to the amount of such assessment, the interest thereon as above provided plus reasonable attorney's fee and the costs of the action.

**I. LIEN OF ASSESSMENTS IN SUBORDINATE TO RECORDED**

**MORTGAGES:** The lien of assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon a lot subject to the assessment. The sale or transfer of a lot shall not effect the assessment lien, provided, however, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu of

foreclosure thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any assessments thereafter coming due or from the lien thereof.

**J. COLLECTION OF MAINTENANCE ASSESSMENTS:** It is the intent of the Developer by virtue of executing and recording this document to provide additional and final notice as to the existence of the aforesaid maintenance assessments including the fact that their nonpayment constitutes a lien against the property and causes late charges to accrue and in the event legal action is required for reimbursement of all cost and expenses thus incurred including a reasonable attorneys fee. Furthermore a provision is also made that in the event of a sale of a lot or lots, and the nonpayment at that time of any unpaid maintenance assessments, including this they have accrued prior to the date of the sale including late charges if any for their collection from the new owner who will likewise be subject to suit, and will also have to pay all cost and expenses of resale of any property covered by the aforesaid protection covenants, the Developer's representative, presently Hinson Management, Inc. located at P.O. Box 160207, Boiling Springs, SC 29316, 564-599-9019, should be contacted, to determine if there are any unpaid assessments and, if so, the amount owed, and any pro-ration to those assessments that should be collected at the time of sale.

## **ARTICLE VII**

**1. ENFORCEMENT BY HOMEOWNERS ASSOCIATION:** Except for approvals and rights expressly reserved herein unto the Developer or its nominee, the Association shall have standing to enforce the within restriction, covenants and obligations in the same manner and to the same extent as does the Developer or any other owner. The powers and authorities herein granted to the said Association shall be in addition to such other and further rights, duties and obligations which may be set forth in the Bylaws of the Association adopted in accordance with the terms thereof.

**2. TERMS OF ENFORCEMENT AND AMENDMENTS:** The covenants, conditions, easements and restrictions shall be binding upon the Developer, its successors and assigns, and upon all future owners, their respective heirs, successors and assigns, and all parties claiming under them, until October 1, 2040, at which time the terms hereof shall be automatically extended for successive periods of ten (10) years thereafter, unless the then Owners owning at least two-thirds (2/3) of the Lots in Woodfin Ridge, Phase V agree in writing to terminate or change same. The terms and conditions of this instrument may be amended or changed only upon written agreement of the Owners owning at least two-thirds (2/3) of the Lots in Woodfin Ridge, Phase V. Notwithstanding anything herein to the contrary, the Developer, its successors and assigns, reserves the right to waive, modify or change in writing, any of the terms hereof with respect to the application thereof to a lot based upon special, unique or unusual circumstances, but no such waiver, modification or change shall substantially affect the overall plan of development.

3. EFFECT OF COVENANTS AND ENFORCEMENT: Each owner, tenant and guest, their successors, heirs, and assigns, and all others who take interest in land or realty with Woodfin Ridge, Phase V do promise, covenant and undertake to comply with each provision of these Covenants which provisions are:

- (A) shall be considered and deemed to be incorporated in each deed or other instrument by which any right, title or interest in any lot is granted, devised, or conveyed, whether or not set forth or referred to in such deed or other instrument;
- (B) shall be virtue or acceptance of any right, title or interest in any lot by an owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such owner to, with and for the benefit of the Developer, the Association and all other owners, their respective heirs, successors and assigns;
- (C) shall be deemed a real covenant by the Developer for itself, its Successors and assigns and also an equitable servitude, running in each case, both as to burdens and benefits with and upon the title to each lot;
- (D) shall be deemed a covenant, obligation and restriction secured by a lien binding, burdening and encumbering the title to each lot, which lien with respect to any such lot shall be deemed a lien in favor of the Association.

WHO MAY ENFORCE: The benefits and burdens of these covenants run with the land at law and in equity, and the Developer and the Association, their respective successors and assigns, and any owner, his heirs, successors, legal representatives, Personal Representatives and assigns shall have the right to proceed against any party in violation or breach in any event.

4. AGAINST WHOM MAY THE COVENANTS BE ENFORCED: The obligation and benefits prescribed by this Instrument shall run with the property and shall be enforceable against any owner, his heirs, successors and assigns, and any other person whose activities bear a relation to (including omissions and failures to act) which constitute violations or attempts to violate contravene the terms hereof.

5. ENFORCEMENT REMEDIED: In addition to other enforcement rights mentioned herein, in the event that any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land use is in violation of these covenants, the Developer, its successors and assigns, the Association or nay owner

may institute appropriate legal proceedings or actions at law or in equity, including, but not limited to, actions: (1) to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; (2) to restrain, correct or abate such violation, or breach of these covenants; (3) to prevent the occupancy of any dwelling or land; (4) prevent any act, conduct, business or use which is in breach of these covenants; (5) to compel any affirmative act which, pursuant to the covenants, "shall" be performed. Any action in equity hereunder for the enforcement hereof shall not be barred on the grounds that there may also exist an adequate remedy at law. The prevailing party in any action to enforce these restrictions shall also be entitled to reasonable attorney fees against the other party. The Association shall have the further right to assess a daily penalty of \$25.00 against any property owner activity and knowingly violating the terms and conditions of the Covenants. The property owner will have ten (10) days from the date of such written notice to rectify the violation. Should the property owner not comply with the terms and conditions of the Covenants within the aforementioned ten-day period, the daily \$25.00 penalty shall attach to the property of the eleventh day and continuing. This penalty will accrue at a rate of \$25.00 per day until such time the property owner demonstrates full compliance with the terms and conditions of the Covenants. All monetary penalties assessed if not satisfied, shall be collected in the same manner and under the same terms as Assessments set forth in Paragraph H. Any such monetary penalty shall be paid directly to the Association.

The assessment of a monetary penalty shall be an additional remedy, and the Association shall retain the use of any and all other enforcement rights noted in the Covenants. The utilization of any one particular enforcement remedy shall not continue a waiver of any other remedies.

#### 6. MISCELLANEOUS:

A. NO WAIVER: Failure to enforce any provision of this instrument for any period of time by the Developer, the Association, or any owner shall not be deemed a waiver or estoppels of the right to enforce same at any time thereafter.

B. CAPTIONS: The captions and headings in the instrument are for convenience only and shall not be considered as controlling in construing the provisions hereof.

C. BOARD AUTHORIZATIONS: All actions of the Association shall be authorized actions if approved by the Board of Directors of the Association in accordance with its Bylaws, unless the terms of this instrument provide otherwise. The Board is empowered to adopt rules and regulations so long as these rules and regulations are consistent with this declaration.

D. GENDER, TENSE, NUMBER AND APPLICABILITY OF DEFINITIONS: When necessary for proper construction, the masculine form of any word used herein shall include the feminize or neuter gender and the singular, the plural and visa versa, and words used in the present tense shall include the future tense.

E. SAVINGS CLAUSE: If any provision or provisions of this instrument are found to be ineffective or unenforceable for any reason in the final judgment of any court having jurisdiction of the subject matter hereof, the remaining provisions hereof shall remain fully enforceable and binding upon the owners, their respective heirs, successors or assigns.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 18<sup>th</sup> day of September, 2009.

IN THE PRESENCE OF:

Sarah N. Dunagin  
Bobby D. Amaker

Newman & Sims Development

L. Allen Newman  
Newman & Sims Development, Inc.  
by: L. Allen Newman, President

STATE OF SOUTH CAROLINA )

)

PROBATE

COUNTY OF SPARTANBURG )

Personally appeared before me the undersigned witness and made oath that (s) he saw the within named Newman and Sims Development sign and with Covenants and Restrictions and Seal said Covenants and Restrictions, and as its act and deed, deliver the same and (s) he with the other witness subscribed above witnessed the execution thereof.

Sarah N. Dunagin

SWORN to before me this 18<sup>th</sup>  
Day of September, 2009  
Bobby D. Amaker (SEAL)  
Notary Public for South Carolina  
My Commission Expires: March 1, 2011