

## **BILL OF ASSURANCE AND PROTECTIVE COVENANTS**

This DECLARATION is made this \_\_\_\_ day of October, 2007, by McCullough Comsites Corporation, Developer.

WHEREAS, Developer is the Developer of the Subdivision known as Riverside Ridge Estates in Fulton County, Arkansas; and

WHEREAS, the Subdivision is located in Fulton County, Arkansas, and is legally described on Exhibit A attached hereto; and

WHEREAS, Developer is developing the Subdivision as a planned residential community consisting of residential Neighborhoods; Common Areas comprised of, amongst other things, roads, entrance ways, water areas, and open and landscape areas; and

WHEREAS, Developer by this Declaration imposes those certain protective covenants, conditions, and restrictions set forth herein upon the Subdivision; and

WHEREAS, Developer desires to provide for the preservation of property values, amenities and opportunities in contributing to the personal and general health, safety and welfare of residents and for the maintenance of the land and improvements thereon, and to this end desires to subject the real property included within the Subdivision to the protective covenants, conditions, restrictions, and other provisions hereinafter set forth, each and all of which is and are for the benefit of each Owner; and

WHEREAS, Developer has caused a Corporation to be formed, which Corporation has joined in this Declaration to which there has been and will be delegated and assigned certain powers and duties of operation, administration, maintenance and repair of portions of the Subdivision; and the collection and disbursement of the Operating Expenses, all as more particularly set forth herein; and

NOW, THEREFORE, the Developer declares that the Subdivision is and shall be owned, used, sold, conveyed, encumbered, demised, and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, burdens, liens, and all other provisions of this Declaration, all as hereinafter set forth, which shall run with the Subdivision and be binding on all parties having any right, title or interest in the Subdivision, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

1. The fee simple owner does hereby impose on said property the following restrictions and covenants:
  - A. Each dwelling unit must have not less than 1,400 square feet of living space, exclusive of any carport, garage, and/or patio, complete with indoor toilet facilities connected to a sewage disposal system meeting the requirements of the Arkansas State Health Department. All plumbing, electrical, heating and cooling, and all other construction of whatever kind and nature (as

allowed under these restrictions) shall equal or exceed the requirements of the building and other applicable codes of the State of Arkansas.

- B. Only site built homes of wood construction or ICF (Insulated Concrete Forms) are allowed. Only 1 (one) dwelling unit per lot is allowed. No Structure of any kind of what is commonly known as factory built, modular, or mobile home type construction shall be erected on the property. No house trailers shall be permitted at any time on any tract. All construction shall be new materials and said construction shall be completed within Three hundred and sixty five (365) days of construction initiation.**
- C. Trash and garbage cans shall be located to the rear of the structures and shall be kept neat and orderly at all times.**
- D. No satellite dishes over three feet (3') in diameter are allowed, except in the rear yard.**
- E. No fences shall be erected in front of any residence within the subdivision.**
- F. The owner of each dwelling shall provide "off street" parking for at least two (2) vehicles.**
- G. No structure shall be located on any lot nearer than thirty (30) feet to any street boundary. No structure shall be located nearer than ten (10) feet to any side lot line, nor nearer than twenty-five (25) feet to any rear lot line. Provided, however, that nothing in these restrictions shall prohibit the owner of more than one (1) lot from utilizing said adjacent lots in such a way as to build any conforming structure so that it occupies both lots, except where said construction would interfere with easements setout in the recorded plat.**
- H. No commercial, business, or trade activity shall be carried on upon any lot; nor shall any refuse, trash, weeds, brush, or tree cuttings or trimmings be thrown, placed, or dumped on any vacant lot, or annoyance or nuisance be maintained on any lot. No signs of any kind may be placed or erected on any parcel without the specific permission of the developer. No lot shall be used for the raising of swine, goats, poultry or cattle. Dogs must be confined to the property of the dog owner.**
- I. Each homeowner may have one (1) outbuilding provided that the exterior is of the same material and style as the dwelling unit.**
- J. No further subdividing of any lots shall be allowed. However, this does not prevent the owner of a lot from building a guest house with a maximum 1,000 heated square feet, providing the guest house exterior is matching to the primary residence. The primary residence must be built prior to the construction of the guest house.**

- K. No firearms (rifles, shotguns, handguns) shall be discharged within the subdivision.**
- 2. Dedications. Easements of way for streets as shown on the recorded plat are donated and dedicated to the owners of the lots in the Subdivision, their family members, invitees, licensees, lessors, and guests, for purposes of ingress and egress and shall be subject to a gate at the entrance of the Subdivision, persons, firms, or corporations engaged in supplying electric power, telephone, gas, water, and/or sewer shall have the right to use and occupy said easements of way and streets for the installation, maintenance, repair, and/or replacement of utility services. Other easements for the installation, maintenance, repair, and/or replacement of utility services and drainage have been reserved, said easements being of various widths, reference being made to the recorded plat for a more specific description of width and location. The agents, servants, and employees of any parties giving any utility service shall have the right of ingress to and from and in, over, and across said easements, and no improvements, trees, incinerators, fences, or other hindrances shall be placed upon such easement areas that will interfere with the operation and maintenance of such utility services. In the event such improvements, trees, fences, or other hindrances are grown, built or maintained within the areas of such easements, no utility shall be liable for the destruction or repair of same.**
- A. Exposed overhead wires and cables for utility services are prohibited in this subdivision, except within the easements designated on the recorded plat.**
- B. Any alterations or lowering of the surface grade of the ground in any easement and the area immediately adjoining such easement are prohibited which would result in there being less than thirty-six (36) inches of clearance either vertically or horizontally between the surface grade and any underground utility, except for electrical distribution transformer stations and utility service connections points located on the surface grade. Fills within the area of said easements and upon the lands adjacent thereto which will damage or which will interfere with the installation, maintenance, operation, and/or replacement of the underground facilities and equipment and the supplying of utility service from such equipment are also prohibited. The utility companies will be reimbursed by the owner(s) for any reasonable cost of relocating, additions to, or changes in its facilities occasioned by changes in grade, replat of lots, or change in usage designated in these protective and restrictive covenants. All owners of lots shall enter into standard agreement with utility companies for the installation of their underground service laterals and/or electric service entrance conductors of adequate capacity. The terms of the easements shall remain in existence so long as said easements are being used by utility companies to supply utility service, and said easements shall extend beyond the limitations of terminating clauses as may or may not be set out elsewhere in these protective and restrictive covenants.**
- C. The term "utility company" as used herein shall mean any entity which supplies utility service.**

3. Any invalidation of any of these covenants by a judgment of order of any court of competent jurisdiction shall in no way affect any of the other provisions, which shall remain in effect and in full force. No provisions of this document may be changed or amended unless approved by three-fifths of the property owners.
4. The plat of Riverside Ridge Estates, as recorded in the Fulton County Clerk's Office cannot be changed unless vacated by applicable authority.
5. **Membership and Voting Rights in the Corporation:**
  - A. **Membership:** The membership of the corporation shall consist of the owners of the lots as follows:
    1. The owner or owners of each lot shall be entitled to one (1) vote per lot. If a lot has multiple owners there shall be only one (1) vote for that lot.
    2. The members rights, powers, duties and privileges shall be as set forth in the articles and by-laws of the corporation.
6. **Covenant to Pay Assessments for Operation Expenses; Establishment and Enforcement of Liens; Certain Rights of Developer and Institutional Mortgagees:**
  - A. **Affirmative Covenant to Pay Operation Expenses:** In order to:
    1. fulfill the terms, provisions covenants and conditions contained in this Declaration; and
    2. maintain, operate, and preserve and improve the Streets and Common Areas for the recreation, use, safety, welfare, and benefit of the Subdivision, there is hereby imposed upon each lot owner the affirmative covenant and obligation to pay (in the manner herein set forth) all Assessments, Individual Unit Assessments and Special Assessments (as hereinafter provided). Each owner by acceptance of a deed or other instrument of conveyance, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay all assessments for Operating expenses in accordance with the provisions of this Declaration and consents and agrees to the lien rights set forth hereunder. The liability for Assessments for Operating Expenses may not be avoided by waiver of the use or enjoyment of the Common Areas or by abandonment of the lot for which the Assessments are made.
  - B. **Establishment of Liens; Late Charge:** Any and all assessments for Operating Expenses made by the Subdivision in accordance with the provisions of this Declaration (the Assessments) with interest thereon at the highest rate allowed by law and costs of collection, including, but not limited to,

reasonable attorneys' fees as hereinafter provided) are hereby declared to be a charge and continuing lien upon the lot against which each such Assessment is made. In addition, the owner of a lot for which Assessments are more than thirty (30) days overdue to pay a late charge in an amount to be determined by the Board. Each Assessment against a lot, together with late charges and interest thereon at the highest rate allowed by law shall be the personal obligation of the owner of each such lot assessed. Said lien shall be effective only from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged claim of lien by the Corporation setting forth the amount due to the Corporation as of the date the claim of lien is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the claim of lien in recordable form.

C. **Collection of Assessments:** In the event any Owner shall fail to pay Assessments, or any installments thereof, charged to such owner within fifteen (15) days after the same becomes due, the Corporation shall, in its sole discretion, have any and all of the following remedies to the full extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Corporation:

1. To accelerate the entire amount of any Assessments for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.
2. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Corporation in like manner as a foreclosure of a mortgage on real property.
3. To file an action against the Owner at law to collect said Assessment plus any late charge plus interest at the highest rate allowed by law court costs and reasonable attorneys' fees without waiving any lien rights or rights of foreclosure in the Corporation.

D. **Method of Determining Assessments for Operating Expenses:**

1. **Budget:** The total anticipated Operating Expenses for each calendar year shall be set forth in a budget (the Budget) adopted by the Corporation not later than October 31<sup>st</sup> of the calendar year preceding the calendar year for which the Budget is being adopted.
2. **Individual Lot Assessment:** The total anticipated Operating Expenses (other than those Operating Expenses which are properly the subject of a Special Assessment, as hereinafter set forth) shall be apportioned to determine the Individual Unit Assessment as follows:

- A. Subject to the provisions hereof, the Annual Assessment for each lot shall be arrived by dividing the total annual anticipated Operating Expenses by the number of lots in the Subdivision.
- E. **Assessment Payments:** The Individual Unit Assessments and installments thereof may be adjusted from time to time by the Corporation to reflect changes.
- F. **Special Assessments:** Special Assessments include, in addition to other Assessments designated as Special Assessments and whether or not for a cost or expense which is included within the definition of Operating Expenses, those Assessments which are levied for capital improvements (other than those capital improvements initially constructed by Developer as part of the Subdivision) which include the costs (whether in whole or in part) of constructing or acquiring improvements for or on the Corporation Common Areas or the cost (whether in whole or in part) of reconstructing or replacing such improvements. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Annual Assessment, and any such Special Assessments assessed against lots and lot owners shall be paid by such lot owners in addition to any regular Assessments. Special Assessments shall be paid in such installments or in a lump sum as the corporation shall, from time to time, determine.
- 7. **Operating Expenses; Certain Assessment Classifications:** The following expenses of the Corporation are hereby declared to the Operating Expenses which the Corporation is obligated to assess and collect and which the Contributing Lot Owners are obligated to pay as provided herein or as may be otherwise provided in the Documents.
  - A. **Taxes:** Any and all taxes and special assessments levied or assessed at any and all times upon the Common Areas or any improvements thereto or thereon by any and all taxing authorities or districts, and against any and all personal property and improvements, which are now or which thereafter may be placed thereon, including any interest, penalties and other charges which may accrue thereon. In the event that any applicable taxing authority cannot, or determines not to, allocate any tax or special assessment between real property having different Land Use Classifications, the Corporation shall make such allocation as it deems appropriate, and shall make assessments for Operating Expenses accordingly.
  - B. **Utility Charges:** All charges levied by utilities or districts providing services for the Common Areas.
  - C. **Insurance:** The premiums on the policy or policies of insurance which the Corporation, in its sole discretion determines to obtain.
  - D. **Reconstruction of Structure or Improvements:** Any and all expenses necessary to maintain, repair, operate, protect, and replace the Common Areas, shall be an Operating Expense.

**8. Declaration Runs With the Land; Term of Declaration:**

- A. The covenants, reservations, restrictions and other provisions of this Declaration shall run with and bind the Subdivision lot owners, and their heirs successors and assigns.**
- B. This Declaration shall be effective for a term of thirty (30) years from the date this Declaration is recorded, after which time these covenants, conditions, restrictions, and other provisions shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by the then Owners of at least two-thirds (2/3s) of all lots have been recorded agreeing to change or terminate (if not prohibited by other provisions of this Declaration) these covenants, conditions, restrictions, or provisions in whole or in part.**

**IN WITNESS WHEREOF, we, as the Officers of McCullough Comsites Corporation, the Owners of Riverside Ridge Estates and Riverside Ridge Estates Property Owners Association, Inc., have on this \_\_\_\_\_ day of October, 2007, affixed signatures.**

\_\_\_\_\_  
**President, McCullough Comsites Corporation**

\_\_\_\_\_  
**Secretary, McCullough Comsites Corporation**

**Accepted and Approved by Riverside Ridge Estates Property Owners Association, Inc.**

\_\_\_\_\_  
by:

STATE OF ARKANSAS     )  
  ) §  
COUNTY OF FULTON     )

On this day before me, \_\_\_\_\_, have hereunto acknowledged that they executed the foregoing Bill of Assurance and Protective Covenants.

Witness my Hand and Notary Seal this \_\_\_\_\_ day of October, 2007.

\_\_\_\_\_  
**Notary Public**

**My Commission Expires: \_\_\_\_\_**