

**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

FOR

BEAU CHENE ESTATES,

STATE OF ALABAMA
COUNTY OF BALDWIN

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for **BEAU CHENE ESTATES**, (the "Declaration" or "Covenants") made this the 6th day of June, 2016 by **BEAU CHENE ESTATES PROPERTY OWNERS ASSOCIATION, INC.** (the "Association"), is applicable to **BEAU CHENE ESTATES**, (the "Development").

WHEREAS, **SOUTH MALBIS, L.L.C.**, (Developer) owned certain land located in Baldwin County, Alabama as shown on the Amended Plat of **BEAU CHENE ESTATES**, recorded at Slide No. 2352 A & B in the records of the office of the Judge of Probate of Baldwin County, Alabama, sometimes referred to herein as (the "Property");

WHEREAS, an Assignment Of Developer's Rights, dated the 10th day of September, 2014, by and between **SOUTH MALBIS, L.L.C.**, an Alabama limited liability company, and **TRULAND HOMES, L.L.C.** ("Truland"), an Alabama limited liability company, transferred, set over and assigned all rights reserved to **SOUTH MALBIS, L.L.C.** under that certain Declaration of Covenants and Restrictions for **BEAU CHENE ESTATES**, recorded as Instrument #1055883 in the Office of the Judge of Probate, Baldwin County, Alabama.

WHEREAS, a Settlement Agreement, dated the 13th day of November, 2015, by and between the Association and Truland called for the transfer of the developer's rights and powers to **BEAU CHENE ESTATES PROPERTY OWNERS ASSOCIATION, INC.**, among other provisions set forth specific terms and conditions with regard to the future construction of homes by Truland on certain Lots owned by Truland as of the date of said agreement;

WHEREAS, Truland acknowledged and agreed that there is no longer a Class B Member of the ASSOCIATION as of December 9, 2015, and transferred the Rights and Powers of the Developer, its successors and assigns, to the Association effective December 9, 2015;

WHEREAS, the Board of Directors of the Association desires to Amend and Restate the Declaration of Covenants, Conditions and Restrictions for **BEAU CHENE ESTATES** to amend certain sections herein, correct scrivener's and typographical errors

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in the original Declaration, and provide for the preservation of the value of the Development and maintenance of the common area;

WHEREAS, this Amended and Restated Declaration of Covenants, Conditions and Restrictions for BEAU CHENE ESTATES supersedes and replaces all prior Declaration(s), including any and all amendments thereto;

WITNESSETH:

NOW, THEREFORE; the Developer hereby declares that the Property is and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied and used subject to these Covenants. These Covenants, the benefits of these Covenants and the affirmative and negative burdens of these Covenants shall touch and concern and run with the Property.

NOW, THEREFORE, the Board of Directors of the BEAU CHENE ESTATES PROPERTY OWNERS ASSOCIATION, INC., hereby causes this duly adopted Amended and Restated Declaration of Covenants, Conditions and Restrictions for BEAU CHENE ESTATES, to be effective this the ____ day of _____, 2016. These Amended and Restated Covenants, the benefits of this Declaration and the affirmative and negative burdens of this Declaration, shall touch and concern and run with the Property.

ARTICLE I

In this Declaration, the following words will have the meaning ascribed to them in this Article I:

Section 1.01 ARCHITECTURAL REVIEW COMMITTEE (ARC) shall mean and refer to the individual, individuals or entity which shall be assigned by the Developer the duties of Architectural and Design Review and other duties as stated within this Declaration and pursuant to Section 6.01 herein.

Section 1.02 ASSOCIATION shall mean and refer to **BEAU CHENE PROPERTY OWNER'S ASSOCIATION, INC., AN ALABAMA NON-PROFIT CORPORATION**, its successors and assigns. These are the Covenants, Conditions and Restrictions to which the Articles of Incorporation and By-Laws of the Association make reference.

Section 1.03 BUILDER OR CONTRACTOR shall mean and refer to those Builders or Contractors who are duly licensed by the State of Alabama, approved by the ARC, and are primarily engaged in the business of constructing custom homes. All Builders or Contractors that desire to build a home in Beau Chene Estates must first apply to, and be approved by the ARC. The ARC shall have the sole responsibility and authority to designate approved Builders and Contractors.

Section 1.04 COMMON AREA OR AREAS shall mean and refer to that certain real and/or personal property conveyed, or to be conveyed, the Association by the Developer in accordance with Section 7.01. In addition, the Common Area as shown on the Plat and the median to any portion of a private or dedicated road or street, within or abutting the Property, shall be included in the Common Area unless otherwise provided.

Section 1.05 COVENANTS shall mean and refer to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for BEAU CHENE ESTATES.

Section 1.06 DECLARATION shall mean and refer to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for BEAU CHENE ESTATES.

Section 1.07 DEVELOPER shall mean and refer to **SOUTH MALBIS L.L.C., AN ALABAMA LIMITED LIABILITY COMPANY**, its successors and assigns.

Section 1.08 DWELLING UNIT shall mean and refer to that portion of any improved Lot intended or used, or being used, as a single-family residential dwelling.

Section 1.09 ENCLOSED LIVABLE AREA shall mean and refer to the area of the Dwelling Unit which is completely enclosed and protected from the weather (heated and cooled) and intended as the living quarters of the Dwelling Unit. Heated and cooled garages and car storage areas are not considered as living quarters of the Dwelling Unit.

Section 1.10 IMPROVED LOT shall mean and refer to a Lot on which is located a building and/or other structure(s) as to which required approval for use and occupancy shall be obtained.

Section 1.11 INSTITUTIONAL MORTGAGE shall mean and refer to any Federal or State chartered bank, Life Insurance company, Federal or State Savings and Loan Association or Real Estate Investment Trust which holds a first mortgage or other first lien or charge upon the Property or portion of the Property or any interest therein which is of record in the Office of the Judge of Probate of Baldwin County, Alabama.

Section 1.12 LOT shall mean and refer to any of the number and delineated parcels shown as Lots 1 through 59 on the Plat, as the same may be amended from time to time, and any additional Lots added by Developer pursuant to Section 2.02.

Section 1.13 MEMBERS OR MEMBERSHIP shall mean and refer to the Association's members.

Section 1.14 OWNER OR PROPERTY OWNER shall mean and refer to the holder of record of fee simple title to any Lot. Notwithstanding any applicable legal theory of any mortgagee, "Owner" shall not mean or refer to the mortgagee, mortgagee's heirs, successors, or assigns, unless such mortgagee has acquired title

pursuant to the foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any leasee of any Owner, nor shall the term "Owner" mean or refer to any person holding title merely as security for the payment of a debt. In the event there is of record a deed granting one or more parties a life estate in any Lot, the Owner of said Lot shall be deemed to be the holder or holders of the life estate, regardless of who owns the fee interest.

Section 1.15 PLAT shall mean and refer to the recorded Plat of **BEAU CHENE ESTATES** as recorded in the records of the Office of Judge of Probate, Baldwin County, Alabama; or such subsequent plats as may be filed in connection with the development of the Property, as the context deems appropriate.

Section 1.16 PUBLIC RECORDS shall mean and refer to the records of the Office of the Judge of Probate, Baldwin County, Alabama.

Section 1.17 DEVELOPMENT shall mean **BEAU CHENE ESTATES**, as shown on the Plat of **BEAU CHENE ESTATES**, as recorded in the Public Records, and any additional units added thereto by the Developer.

Section 1.18 UNIMPROVED LOTS shall mean and refer to any Lot which is not an improved Lot.

ARTICLE II

FUTURE DEVELOPMENT AND ADDITIONS TO THE PROPERTY

Section 2.01 [DELETED]

Section 2.02 [DELETED]

Section 2.03 [DELETED]

Section 2.04 CREEK MODIFICATION. The Developer, its successors and assigns, specifically reserves the right, but not the obligation to undertake or allow others to undertake the modification of the flow and course of any streams or creeks which may be located on the property, including the construction of lakes, ponds, dams and weirs.

ARTICLE III

GENERAL COVENANTS AND RESTRICTIONS

APPLICABLE TO LOTS AND DWELLING UNITS

Section 3.01 PURPOSES. The primary purpose of these covenants and restrictions is the creation of a Development that is aesthetically pleasing and functionally convenient.

Section 3.02 LOTS LIMITED TO RESIDENTIAL USE. All Lots shall be used for single-family residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed, attached to or permitted to remain on any Lot other than those structures and improvements approved for use and occupancy by the Developer. No Lot or structure shall be used for the operation of any business.

Section 3.03 SITING AND THE TREE REMOVAL. All Dwelling Units, buildings and other improvements must be located within the setback lines as shown on the Plat. All improvements shall be located so that the maximum view and privacy will be available to each Dwelling Unit, and that all improvements will be ideally located with regard to the topography of each Lot taking in consideration of the location of trees or plants, and or aesthetic and environmental consideration, and shall be approved by the ARC, its successors and assigns.

Prior to clearing any Lot or cutting any trees from any Lot, a site inspection shall be performed by the ARC and upon written approval, the Builder may proceed to clear the Lot. At the time of said inspection all trees that are to be removed shall be flagged and a rough stake-out of the Dwelling shall be in place. It is the intent of the ARC to preserve as many trees on the site as possible. Site approval and tree removal shall be at the sole discretion of the ARC and any violation shall be subject to enforcement as provided under these Declaration of Covenants, Conditions and Restrictions. No Builder or Lot Owner shall remove any tree or trees from any Lot without the prior written approval of the ARC. Should any Builder or Lot Owner remove any tree or trees without the prior written consent of the ARC or should any Builder or Lot Owner remove any additional trees on any Lot other than those which have been approved for removal by the ARC, then, that Builder or Lot Owner shall be subject to a minimum fine of \$2,500.00 for the removal of the first tree which shall be in violation of this provision and \$250.00 per tree for each additional tree which shall be removed in violation of this Section.

Upon completion of construction of a Dwelling Unit on any Lot, no additional trees shall be removed from that Lot without the prior written approval of the ARC or the Association. Should any Lot Owner remove any additional tree or trees, the Lot Owner shall be subject to a minimum fine of \$2,500.00 for the removal for the first additional tree and \$250.00 fine assessed for the removal of each additional tree thereafter which shall be removed in violation of this Section. Exceptions shall be made

on a case by case basis, with no fine assessed, in the event of trees considered to be of an invasive species, diseased trees, damaged trees, or any trees which may create an imminent threat of danger to the Dwelling Unit located on that Lot or an adjoining Lot. Approval of removal of any additional tree, or trees shall be at the sole discretion of the ARC.

All fines which are collected as a result of this Section shall be placed in a special account which shall be established by the Association and these monies shall be used for the purpose of enhancing or maintaining the landscape aesthetics within the common areas and other parts of the subdivision as the Association may deem appropriate.

Section 3.04 SIGNS. No signs shall be erected or maintained on the property or any other Lot at any time by anyone, including without limitation, a Property Owner, realtor, contractor or subcontractor, except for the following approved signs: (a) One "For Sale" sign; (b) One sign displayed by the contractor during construction for the maximum of 12 months or until completion of the construction, whichever shall first occur; (c) a sign which must be posted as a result of legal proceedings pursuant to a statute or court order; or (d) a sign which has been specifically approved in writing by the ARC. All "For Sale" signs, including realtor signs and contractor display signs, shall be the official **BEAU CHENE ESTATES** sign which shall be designed by the Developer. The ARC reserves the right to restrict the size, color, content, location, number and method of display of each approved sign. Signs must be placed parallel to the street and may not be displayed from the interior of any Dwelling Unit, building, or other improvements so as to be visible from the exterior.

Section 3.05 MAILBOXES. No mailboxes may be erected or maintained on the Property except mailboxes approved by the ARC. The actual cost of providing, erecting and maintaining a mailbox, including ARC approved numbering or lettering, shall be paid by the Property Owner. The ARC reserves the right to specify, require and/or provide (at a reasonable cost to the Property Owner) uniform mailboxes of ARC's choice. The ARC also reserves the right to designate the location of all mailboxes.

Section 3.06 UNSIGHTLY CONDITIONS. It shall be the responsibility of each Property Owner thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly or unkempt condition of buildings or grounds on their Lot either before, during or after construction. Each owner must provide or require an on-site dumpster for trash and litter during construction. It shall also be the responsibility of each Property Owner and tenant thereof to prevent accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area.

Section 3.07 LIGHTS. The design and location of all exterior lighting fixtures shall be subject to the approval of the ARC. Neither these nor any other illumination devices located anywhere on the structures or grounds of any Dwelling Unit shall be

located, directed or of such intensity as to affect adversely the enjoyment of any adjacent Property Owner. Only recessed electrical lighting or decorative gas lighting, including pendant, lantern or similar style fixtures, shall be located on the front of any Dwelling. No flood lights or similar types of lighting shall be allowed on the front of any Dwelling.

Section 3.08 ANIMALS. No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that a reasonable number of common household pets such as dogs and cats may be kept at any one Dwelling Unit, provided that said pets must be secured by a leash or lead, under the control of a responsible person, and obedient to that person's command at any time they are permitted outside the Dwelling Unit. Any areas located on a Lot for the maintenance or confinement of pets, including invisible fences, should not go beyond the front plane of the house and are subject to the prior approval of the ARC.

Section 3.09 SEWAGE CONNECTION AND GRINDER PUMP INSTALLATION. Prior to occupation of a Dwelling Unit, it shall be the responsibility of the Property Owner or its Contractor to install a grinder pump system and connect the grinder pump system to the Dwelling Unit and the sewer main. The installation and future maintenance of the grinder pump system shall be the sole responsibility of the Property Owner. No sewer or other waste material shall be emptied or discharged except into the sanitary sewer system.

Section 3.10 WATER. All Dwelling Units must be connected to the Belforest water supply system. Shallow private water wells may be installed for non-household purposes only. Any Property Owner may install a shallow private water well on his or her Lot and the ARC of the Association may install a shallow private water well on any of the common areas of the subdivision or other approved areas of the subdivision. The location of any such shallow private water well shall be approved by the ARC or the Association and shall be shielded from street view.

Section 3.11 REPAIRS AND HAZARDS. Any building or other improvements on any Lot that is destroyed partially or totally by fire, storm or other means shall be repaired or demolished within a reasonable period of time, and the land on which it was located restored to an orderly and attractive condition. Any damage which causes a dangerous or unsafe condition to persons or which are unsightly and which are not repaired within a reasonable time (in no event longer than 60 days) following notice, may be repaired or removed at the direction of the Association or the ARC, and the cost of such repairs or removal shall become a lien against the pertinent Lot and become the personal obligation of the Owner of such Lot. Any entry upon a Lot to affect such repairs or removal shall not be deemed a trespass.

Section 3.12 OFFENSIVE ACTIVITY. No noxious or offensive activity shall be carried on upon any Lot or any other portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the

community. The ARC and Association shall have the express right, in their sole discretion, to publish rules from time to time to prohibit, regulate or otherwise deal with the activities which violate this Section.

Section 3.13 UTILITIES. All electrical, cable and telecommunication lines located upon the Property, other than those existing on the date of this Declaration, shall be installed and maintained underground unless the ARC specifically approves above ground installation of any lines.

Section 3.14 ANTENNAS AND SATELLITE DISHES. All television antennas, satellite dishes, radio receiver or sender or other similar devices shall be installed on any Lot or structure within the Development so that they are not visible from the street, if possible. In the event such devices are visible from the street, it will be the responsibility of the Owner to screen such devices from street view with approved landscaping or other approved screening material within 60 days of installation. All such devices shall be installed behind the front plane of the house.

Section 3.15 TRESPASS. Whenever the Developer of Association is permitted by this Declaration to correct, repair, preserve, clear out or do any action on or to the Property or on the easement areas adjacent thereto, entering Property and taking such action shall not be deemed a trespass.

Section 3.16 SUBDIVISION. No Lot shall be subdivided, or its boundary lines changed, except with the prior written consent of the Developer. However, the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat any Lot and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site, including, but not limited to, the relocation of any Lot or easements, walkways, tunnels, rights-of-way, roadways and recreational facilities. The provisions of this Section shall also not prohibit the combining of two or more contiguous Lots into one large Lot or allowing three lots to be divided into two lots with the approval of the ARC and applicable local city or county regulating bodies. With the approval of the ARC and local city or county subdivision regulating bodies, adjacent Lot Owners may adjust or relocate their common Lot line.

Section 3.17 INGRESS AND EGRESS. The Owner, in accepting title to the Lot conveyed subject to the covenants and restrictions of this Declaration, waives all rights of uncontrolled and unlimited ingress and egress to such Property (and waives such right of any person claiming entry rights by virtue of any relationship of permission of such Property Owner and successors in title) and agrees that such ingress and egress to the Owner's Lot may be limited to roadways built or approved by the ARC. The ARC, its successors, assigns, agents, employees and licensees, expressly reserve a right of ingress and egress upon and through any and all roads, roadways, bridges and any other designated access routes in the Development to any portion or part of the Development or Property. Nothing in this Section shall be construed as placing an affirmative

obligation on the Developer to provide or construct any road, bridge or other means of ingress and egress to or within the Development.

Section 3.18 FIREARMS. No hunting by any means or discharge of firearms of any other type of hunting apparatus shall be allowed in the Development.

Section 3.19 BRIDGES. The Developer expressly reserves to itself, its successors, assigns, agents, employees and licensees, and other provisions of this Declaration notwithstanding, the right to build bridges, walkways, tunnels or fixed spans across any or all natural or man-made waters, canals, creeks, ditches, drains, ravines, paths or lagoons in the Development. Nothing in this Section shall be construed as placing an affirmative obligation on the Developer to provide or construct any such improvement.

Section 3.20 LANDSCAPING AND IRRIGATION. The Developer encourages the use of natural landscaping and any Lot Owner or contractor shall submit to the ARC prior to construction of any Dwelling, a landscaping and irrigation plan which shall be approved by the ARC, its successors and assigns. All lots shall have an approved irrigation system. All landscaping and irrigation systems shall be completed in accordance with the approved landscaping and irrigation plan and shall be completed within 60 days from the completion of the construction of said Dwelling, including complete sodding with grass, or other ground cover approved by the ARC. All A/C units and similar mechanical devices shall be screened from view by vegetative plant matter. Screening constructed of wood or similar material may be approved by the ARC, at its sole discretion.

Section 3.21 TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. No storage building of any type shall be permitted unless such building is designed as a part of the main Dwelling and approved by the ARC, its successors and assigns, in accordance with these covenants and restrictions. There shall be no occupancy of any Dwelling Unit until the interior and exterior of the Dwelling Unit are complete and a certificate of occupancy has been issued by the necessary public agency.

Section 3.22 FENCES, PRIVACY WALLS AND HEDGES. All fences, privacy walls and hedges and similar improvements must be approved by the ARC prior to construction and shall be constructed, installed and maintained in accordance with the plans submitted and approved by the ARC. Chain link and shadow box wooden fences shall not be used. A brick, stucco, wood, wrought iron or similar approved fence or privacy wall may be used if constructed and placed in accordance with plans approved by the ARC. Fences are generally discouraged and hedges and natural plantings are generally encouraged and preferred in lieu of fences. ARC shall have the sole discretion to approve or disapprove any fence, privacy wall, hedge or other similar improvement.

The location of all fences on all lots must also be approved by the ARC. **SEE EXHIBIT "A" ATTACHED HERETO FOR EXAMPLES OF APPROVED FENCING.**

Section 3.23 GARAGES AND CAR STORAGE. All Dwelling Units shall have a three (3) vehicle garage or car storage. Provided, however that should the ARC in its sole discretion determine that the Lot size, topography or any other natural condition(s) make it impractical or impossible to construct a three vehicle garage or car storage, the ARC shall have the authority to approve, prior to the beginning of any construction on the Dwelling Unit, a two (2) vehicle garage or car storage. In no case shall any Dwelling Unit be constructed with less than a two (2) vehicle garage or car storage. Garage and car storage openings shall not be constructed on the front of Dwelling Units unless specifically approved by the ARC. In all cases electric automatic door openers/closers shall be installed and used. Any garages visible from the street must be kept closed when not in use. All garage doors must face the opposite direction from the entrance of any street within the subdivision. Example – Lot 1, Beau Chene Estates North or the right hand side of Lot 1.

Section 3.24 RECREATIONAL VEHICLES AND BOATS. No utility trailer, boat, boat trailer, house trailer, horse trailer, camper, motor home, unmaintained cars or trucks or any similar types of vehicles shall be stored on or at any Lot for a period of time in excess of 24 hours, unless housed in an enclosed garage or parked or stored in an area on the Lot which is shielded from view of the street.

Section 3.25 REMEDIES FOR VEHICLE OR RECREATIONAL EQUIPMENT VIOLATIONS. Any such vehicle or recreational equipment parked in violation of these or other regulations contained herein or in the rules and regulations now or hereafter adopted by the Association may be towed by the Association or the Developer, at the sole expense of the Owner of such vehicle or recreational equipment. The Developer or the Association shall also not be responsible for any damage which may occur to such vehicle or recreational equipment in the process of it being removed or towed from the Property.

Section 3.26 CONSTRUCTION BY LICENSED AND APPROVED BUILDER OR CONTRACTOR. All improvements constructed on any Lot shall be made by a Builder or Contractor who has been duly licensed by the State of Alabama and designated as an approved Builder or Contractor by the ARC. It is the responsibility of the Builder or Contractor to complete all construction and obtain the certificate of occupancy for the Dwelling Unit within twelve (12) months from the date on which the clearing of the Lot is approved by the ARC. Any request to extend this twelve (12) month period must be approved by the ARC and is subject to a Request Fee of \$500.00 at the discretion of the ARC. Approval of any Builder or Contractor by the ARC shall not be construed as a representation or guarantee by the ARC or the Association that any Dwelling Unit or improvement constructed will be built in a good and workmanlike manner. The ARC and the Association, and their assigns, assignors, agents, shareholders, officers, directors or members, shall not be responsible or liable for any defects in construction

and poor workmanship by an approved Builder or Contractor. It shall be the responsibility of the Property Owner to satisfy itself as to the quality of workmanship and reputation of any Builder or Contractor which the Property Owner may choose from Builders or Contractors approved by the ARC. The Property Owner shall indemnify and hold the ARC, the Association, and their assigns, assignors, agents, shareholders, officers, directors or members, harmless for any defects in construction or workmanship which may occur as a result of the selection of that Builder or Contractor.

No Property Owner may act as a General Contractor for the construction of a Dwelling Unit or other improvements on any Lot, unless that Property Owner has been duly licensed as a Builder or Contractor by the State of Alabama and approved by the ARC.

Section 3.27 LEASING RESTRICTIONS. No Dwelling Unit or other structure shall be leased by the Property Owner for a lease term of less than one (1) year, and only one (1) primary family per Dwelling Unit shall be allowed. NO boarders or person with similar living arrangements shall be allowed.

Section 3.28 PARKING AND DRIVEWAYS. Each Owner shall provide sufficient space, off Development right-of-ways, for the parking of approved vehicles for the Owner's and Owner's family's use and the use of Owner's guests in accordance with reasonable standards established by the Developer. Parking on the paved portion of any right-of-way not identified as parking areas within the Development shall be prohibited at all times. All vehicles violating this restriction may be removed by the Developer, its successors and assigns, or their designated agent, and the Owner of the vehicle shall be responsible for all charges for towing and storing the vehicle. Driveways shall be constructed of concrete, brick pavers or other materials specifically approved by the ARC unless otherwise provided in these covenants and restrictions. Driveways must be placed a minimum of two (2) feet from the property line between adjoining properties.

Section 3.29 ELEVATION FOR DWELLING. The front elevation of all Dwelling Units shall have a minimum finished floor elevation of 24 inches above the finished grade.

Section 3.30 WATER RUNOFF CONTROL MEASURES. It shall be the sole responsibility of any Lot Owner and Contractor to maintain proper water runoff control measures on that Lot prior to and during construction of any Dwelling Unit. The Lot Owner and Contractor shall take proper measures to ensure that no silt, sand, clay, mud or other similar materials shall run off any Lot and collect onto the streets, gutters, underground drains located in the Development. Upon completion of any Dwelling Unit, it shall be the responsibility of the Lot Owner and Contractor to ensure that no runoff shall be allowed onto an adjoining Lot which may cause damage or erosion to said adjoining Lot.

It shall be the responsibility of the Lot Owner and Contractor to obtain any permits which shall be required by the Alabama Department of Environmental Management (A.D.E.M.) or any permits required by any other governmental agency prior to commencing construction on any lot.

In the event that any fines shall be assessed to the Developer or the Association as a result of the Lot Owner or Contractor's failure to obtain proper permits or failure to maintain proper water runoff control measures, said Lot Owner shall immediately pay any such fines and penalties and shall indemnify and hold harmless the Developer and the Association for the payment of any such fines or penalties. In the event that the Lot Owner or Contractor shall fail or refuse to pay any such fines and penalties which may be imposed such fines and penalties shall be treated as a special assessment against that Lot as provided for in Article X of these Declaration of Covenants, Conditions and Restrictions and shall be enforced in accordance with the provisions of that Article.

Section 3.31 DISPOSAL OF MATERIAL OR DEBRIS. An on-site dumpster or container is required during construction for the purpose of disposal of all material and debris. No on-site burning of materials or debris shall be allowed. Each builder or contractor shall be responsible for keeping all materials and debris cleaned up and keeping the building site in a neat and orderly manner during the construction period.

Section 3.32 SECURING JOB SITE IN THE EVENT OF A HURRICANE OR NAMED TROPICAL STORM. In the event any Hurricane or Named Tropical Storm appears to be an imminent threat to Baldwin County, then, it shall be the Lot Owner and Contractor's responsibility to secure all port-o-let, equipment, lumber and other building materials which may cause damage to the Development, other Lots or Dwelling Units within the Development. Should the Lot Owner or Contractor fail or refuse to secure such equipment and materials, the Lot Owner or Contractor shall be responsible for any damages which may occur as a result thereof and shall hold the Developer and the Association harmless for any such damages.

Section 3.33 HVAC UNITS, MECHANICAL EQUIPMENT, POOL EQUIPMENT AND PLAYGROUND EQUIPMENT. All HVAC Units, Mechanical Equipment, Pool Equipment, Playground Equipment and other similar items shall be screened from street view with approved landscaping and other approved screening material.

ARTICLE IV

SPECIFIC COVENANTS AND RESTRICTIONS

APPLICABLE TO LOTS AND DWELLING UNITS

Section 4.01 LOTS 1-59 SPECIFIC COVENANTS AND RESTRICTIONS. The following specific covenants and restrictions shall apply to Lots 1-59 of the Development, as shown on the Plat and the Dwelling Units constructed on those Lots.

- (a) Minimum enclosed living area (heated and cooled) shall be as follows: Lots 1-59 shall not be less than 3,500 square feet of which a minimum of 2,500 square feet shall be located on the ground floor.
- (b) Minimum roof pitch shall not be less than 9/12 pitch on the primary roof system, however, the ARC shall have the right to approve a lesser roof pitch on any roof area which is not part of the primary roof system.
- (c) Maximum dwelling height shall not exceed 35 feet.
- (d) Exterior finish must be stone, reclaimed brick, handmade wood mold brick, painted modular brick, authentic stucco, wood or fiber cement siding. Approved fiber cement siding material shall be hardiplank or certainteed. A sample of all stone and brick shall be submitted to the ARC for approval prior to beginning construction. Fascia and soffit areas must be finished in wood or fiber cement siding. Porch ceilings must be finished in wood. All windows must be of wood construction and no aluminum or vinyl constructed windows of any type shall be allowed. Wood windows may have vinyl or aluminum clad exterior finish. No vinyl shutters shall be allowed. The exterior finish of any modification, addition or alterations after the construction of the initial Dwelling Unit shall be approved by the ARC and must be constructed of the same material or similar material as the original construction. All vinyl and aluminum products are specifically prohibited.
- (e) Roof Material shall be a 30 year dimensional architectural grade shingle or metal roof, the style and color of which shall be approved by the ARC prior to beginning construction. Standard three tab shingles are specifically prohibited. Roof jacks shall be painted to match the color of the roof. Copper accents are allowed. Exposed metal valleys are specifically prohibited, except for valleys constructed of copper. Clay tile roofs or similar products are specifically prohibited.

- (f) Driveway surfaces shall be constructed of concrete, brick, brick pavers or other materials approved by the ARC. No asphalt, shell or similar materials shall be used for driveway surfaces.

Driveways may be constructed of a proper base material and covered with small aggregate white limestone rock or other approved material and driveways constructed in this manner must be bordered with concrete or brick. Any driveway constructed in this manner shall contain an apron at the entrance of the driveway, a minimum of fifteen (15) feet in length and constructed of concrete, brick, brick pavers or other materials approved by the ARC, and said apron shall connect the driveway with the paved right-of-way.

- (g) Chimneys shall be constructed of approved brick, stone, or stucco. Location of all chimneys and site view from the streets shall be approved by the ARC, prior to beginning construction. Gas Log Fireplaces with the Standard "B" vent pipe shall be allowed if not visible from any street and shall be painted to match the roof material.
- (h) Out-Buildings shall be approved by the ARC on a case by case basis and shall be constructed of similar materials as the Primary Dwelling. All Out-Buildings shall comply with the subdivision regulations and zoning regulations of Baldwin County. Any such Out-Building shall be located in the rear yard of the Dwelling Unit.
- (i) ARC approval of all building plans, exterior building materials, exterior colors and roofing shall be received from the ARC prior to beginning construction or making any improvements or modifications to any Lot, in accordance with Section 6.02. All landscaping and irrigation plans shall also be submitted to the ARC prior to beginning construction or making any improvements to any Lot in accordance with Section 3.20.

ARTICLE V

EASEMENTS

Section 5.01 DEVELOPER EASEMENTS. The Developer reserves unto itself, its successors, assigns, contractors, licensees and agents a perpetual, alienable and releasable easement and right on, over and under the ground of the Property (including each Lot) to erect, maintain and use electric, cable television and telephone poles, wires, cables, conduits, drainage ways, sewers, wells, pumping stations, tanks, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or

utilities on, in or over those portions of the Property as may be reasonably required for any purposes and to grant access easements or relocate any existing access easements in, on or over any portion of the Property as the Developer shall deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, or for the reason of carrying out the purposes of this Declaration; provided, however that no such easement shall be applicable to any portion of the Property as may have been (a) used prior to the installation of such utilities for construction of a building or structure whose plans were approved pursuant to this Declaration by the ARC, or (b) designated as the site for a building or structure on a site plan or for erection of building or structure which has been filed with the ARC and which has been approved in writing by the ARC. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide an economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any Property Owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Developer, or prompt and reasonable remuneration for such repairs shall be made to such Property Owner by the Developer.

Section 5.02 UTILITY AND GOVERNMENTAL SERVICES AND PRIVATE EASEMENTS. All Lots within the Development shall be subject to utility, governmental services and private drainage easements as shown on the face of the recorded Plat and all rights of ingress, egress and access for persons and equipment associated therewith. In addition to the foregoing, the Developer reserves unto itself, perpetual, alienable, and releasable easement and right on, over and under the ground located ten feet along both sides of all roads and rights-of-way and ten feet along the side and rear lines of each Lot.

Section 5.03 MAINTENANCE EASEMENTS. Any area on the Plat designated as a Maintenance Easement shall be used by the Development or the Association for the purpose of maintaining the property which abuts that Maintenance Easement and for no other purpose. Any Maintenance Easement shall not be used as common area by Property Owners.

ARTICLE VI

ARCHITECTURAL AND DESIGN REVIEW

Section 6.01 PURPOSES. In order to preserve the natural beauty of Beau Chene Estates and its setting, to maintain Beau Chene Estates and preserve a harmonious design for the community, to provide for the community's organized development, and to protect and promote the value of property, no building, privacy wall, fence, paving material of any kind, screen enclosures, sewer drains, disposal systems, landscaping or any other structure or improvement of any nature or for any future use or improvement shall be erected, placed, attached to or altered unless and

until the proposed plans, design, specifications, exterior color or finish, plot plan (showing the proposed location of such building structure, drives and parking areas), building height and landscape plan, shall have been approved in writing by the ARC prior to commencement of construction or as otherwise provided for in these Covenants, Conditions, and Restrictions.

The Developer shall establish the ARCHITECTURAL REVIEW COMMITTEE (ARC) and shall have the right to designate any individual, individuals or entity which shall make up this Committee. It shall be the responsibility of the ARC to enforce and carry out the above stated purpose. The decisions made by the ARC shall be binding and shall have the same effect as if made by the Developer. The Developer shall have the right to change the designation of such individual, individuals or entity, serving on the ARC, from time to time as the Developer shall deem necessary and appropriate, so long as the Developer shall own any Lot or Lots in the Development. Once the Developer ceases to own any Lots within the Development, the Association shall then designate such individual, individuals or entity which shall serve on the ARC.

Section 6.02 SUBMISSIONS, APPROVAL AND REFUSAL OF ARCHITECTURE, SITING, LANDSCAPING, AND OTHER BUILDING PLANS.

Two copies of all plans and related data shall be submitted to the ARC prior to any improvements or modifications of any kind being made to any Lot. The ARC shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, urban designers, or attorney's retainer. The fee initially established by these General covenants shall be \$350.00 for each submission. The ARC shall have the right to increase this amount not more than once in any subsequent 12 month period. Approvals shall be dated and shall not be effective for construction commenced more than nine months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is neither granted nor denied within 60 days following receipt by the ARC of the written request for approval, the provisions of this Section shall be thereby waived. Refusal or approval of plans, site location, building height, or specifications may be made by the ARC upon any grounds which is consistent with the objectives of these Covenants, including purely aesthetic consideration, so long as such ground is not arbitrary or capricious.

Section 6.03 ARCHITECTURAL AND DESIGN REQUIREMENTS. All plans submitted to the ARC shall include a site plan, floor plan, elevations, exterior detail and preliminary landscape plan. All such plans must be in sufficient detail to allow the builder to construct such improvements, or in such greater detail as the ARC may require prior to the ARC becoming obligated to review plans, and the failure by the ARC to review the plans which the ARC deems of insufficient detail shall not be deemed a waiver of any of the provisions of this Section.

Section 6.04 APPROVAL NOT A GUARANTEE OR REPRESENTATION OF PROPER DESIGN OR GOOD WORKMANSHIP. No approval of plans, location or specifications shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, as a result in a properly designed Dwelling Unit or that it will comply with applicable federal, state, or local governmental regulations. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Dwelling Unit or improvement thereto will be built in a good and workmanlike manner. The Developer, ARC and their agents and assigns, shall not be responsible or liable for any defects in any plans or specifications submitted, revised or approved under these Covenants nor for any defects in construction pursuant to such plans and specifications. The Property owner shall have sole responsibility for compliance with approved plans and does hereby hold the Developer, ARC and their agents and assigns, harmless for any failure thereof caused by the Property Owner's architect or builder. ARC, in its sole discretion, shall have the right to prohibit the Property Owner's builder and/or general contractor from working on the site, in the event it is determined that the builder and/or general contractor has failed to comply with approved plans, whether such failure be intentional or due to negligence.

ARTICLE VII

PROVISIONS RELATING TO COMMON AREAS

Section 7.01 COMMON AREAS. The Developer intends to convey by statutory warranty deed to the Association as Common Area the following, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance:

- (a) Those certain Common Areas as shown on the Plat as such, subject to any and all applicable restrictions, reservations, encumbrances, and limitations, of record and to all additional restrictions and covenants set forth in the deed conveyance; and
- (b) Any other property located within or without the Development that the Developer elects in its sole discretion to become Common Area.

Section 7.02 EROSION CONTROL. The Developer shall have the right, but not the obligation, to protect from erosion any property in the Development including the Common Area by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Developer. The right is likewise reserved to the Developer to take steps necessary to provide and ensure adequate drainage ways, to remove diseased, dead, or dangerous trees or underbrush, and to carry out other similar activities.

Section 7.03 RESERVATION OF EASEMENTS. The Developer reserves unto itself, its successors, licensees, contractors, agents, and assigns, a perpetual alienable and releasable easement, to go on, over, and under the Common Areas to erect, maintain, and use electric, community antenna television, telephone poles, wires, cables, conduit, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone and television equipment, gas, sewer, water, drainage, or other public conveniences or utilities in the Common Properties. These reservations and rights expressly include the right to cut trees, bushes, or shrubbery as is reasonable necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee or assignee of the Developer, but this reservation shall not be considered an obligation of the Developer to provide or maintain any such utility service.

Section 7.04 PUBLIC RIGHTS LIMITED. The granting of the easement in Common areas in this part in no way grants to the public or to the owners of any land outside of the Development the right to enter such Common Areas or use the roadways or designated access routes located on the Common Areas without the express permission of the Developer, or the Association after the Common Areas are conveyed to the Association by the Developer.

Section 7.05 RESERVATIONS. The Developer expressly reserves to itself, its successors, assigns, licensees, and agents every reasonable use and enjoyment of said Common Areas, in a manner not inconsistent with the provisions of this Declaration, including but not limited to the use of the roadways and designated access routes located in the Common Areas.

Section 7.06 DEVELOPER ACTIONS. Where the Developer is permitted by this Declaration to correct, repair, clean, preserve, clear out or do any action on any Property, entering the Property and taking such action shall not be deemed a trespass breach of these Covenants.

Section 7.07 NO OBLIGATION ON DEVELOPER. It is expressly understood and agreed that the granting of the easements set out in this Article in no way places a burden of affirmative action on the Developer.

Section 7.08 MAINTENANCE OF COMMON AREAS. It shall be the responsibility of the Association to maintain all common areas and all amenities located therein, including, but not limited to all sidewalks, street lights and street signs located within the Development.

ARTICLE VIII

MEMBERSHIP IN THE ASSOCIATION

The Developer has formed or will cause to be formed BEAU CHENE ESTATES PROPERTY OWNERS ASSOCIATION, INC., AN ALABAMA NON PROFIT CORPORATION.

Section 8.01 MEMBERSHIP. Every owner shall automatically, and by virtue of such status as an Owner, be a Member of the Association. Membership shall be automatic and shall be appurtenant to and may not be separated from ownership of any Lot. Transfer of record of ownership of any Lot shall automatically transfer membership in the Association.

Section 8.02 VOTING RIGHTS AND GOVERNANCE OF THE ASSOCIATION. Voting rights of members are as follows:

A. All Members shall be entitled to cast one vote for each improved or unimproved Lot owned in all matters in which membership voting is authorized in the Declarations, the Articles of Incorporation, the By Laws or any other rules and regulations binding upon the Association, except as specifically provided herein.

B. [DELETED]

C. [DELETED]

D. Notwithstanding the preceding paragraphs, if any assessment required to be paid by a Member is past due as of the time a vote is being taken, such Member shall not be entitled to cast any vote at such time with respect to the Lot on which the assessment is past due.

E. A member entitled to more than one vote must vote all of the Member's votes for or against a matter submitted to the Members for a vote, or such a Member may abstain from voting entirely, i.e., a Member entitled to more than one vote may not split or fragment such Member's votes, but must vote (or abstain from voting) as a single unit.

F. When any Lot entitling the Owner thereof to membership in the Association has Owners which are corporations, trusts or partnerships, or where two or more persons or entities are Owners, whether fiduciaries, joint tenants, tenants in common, tenants in partnerships, or in any other manner of joint or common ownership, one office, trustee, person or entity shall be designated and Voting Member for all the others. Written evidence of such designation in a form satisfactory to the Association shall be delivered to the Association prior to the exercise of a vote by such Owners.

ARTICLE IX

MEMBERS' RIGHTS IN THE COMMON AREAS

Section 9.01 MEMBERS' EASEMENTS OF ENJOYMENT IN COMMON AREAS.

Subject to the provisions of this Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every member or lessee of such Member shall have an easement of enjoyment in the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot. The easement of enjoyment herein shall pass from a Member to a lessee only during the lease term between the Member and Lessee. The Association may adopt additional restrictions to its rules and regulations limiting the easement of enjoyment of Members and Lessees, including but not limited to the specification of minimum lease terms, the number of guests allowed, or the prohibition of use by lessees or guest specific Association properties.

Section 9.02 TITLE TO COMMON AREAS. The Developer has or will convey the Common Areas by Statutory warranty deed to the Association, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance. The Association shall be required to accept such conveyance of the Common Areas and shall, after such conveyance, immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors, subject to this Declaration. The Common Area shall be conveyed subject to all easements and restrictive covenants of record at the time of conveyance.

Section 9.03 EXTENT OF MEMBERS' EASEMENTS. The easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its By Laws, to place mortgages or other encumbrances on the Common Areas as security for borrowing by the Association;

(b) the right of the Association, in accordance with its By Laws, to take such steps as are reasonably necessary to protect Common Areas;

(c) the right of the Association, in accordance with its By Laws, to suspend the voting rights and easements of enjoyment of any Member, lessee or guest of any Member for any period during which the payment of any assessment against the Property owned by such Member is delinquent, and for any infraction of its published rules and regulations, it being understood that any suspension for either nonpayment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver of discharge of the Member's obligation to pay such assessment, and provided that the Association shall not suspend the right to use any roadways

belonging to the Association, if any, although such use shall be subject to the rules and regulations established by the Association for such use;

(d) the right of the Association, in accordance with its By Laws, to charge reasonable user, admission or other fees for the use of the Common Areas and any facilities included therein, it being understood that this right of the Association allows it to have fees and charges apply to any Member, guest or lessee;

(e) the right of the Association, in accordance with its By Laws and subject to the general covenants, to place any reasonable restrictions upon the use of the Common Areas, subject to an Owner's or lessee's right of ingress and egress, including but not limited to, the types and sizes of the vehicles permitted to use the pathways and access routes, the maximum and minimum speeds to vehicles using said routes, and all necessary traffic and parking regulations. The fact that such restrictions on the use of the access routes shall be more restrictive than the laws of a state or local government shall not make such restrictions unreasonable;

(f) the right of the Association, in accordance with its By Laws, to adopt and publish rules and regulations governing the use of the Common Areas, and the conduct of Members, their lessees or guests, and to establish penalties for the infraction of such rules and regulations;

(g) the right of the Developer, or the Association in accordance with its By Laws, to dedicate or transfer to any public or private utility company, utility or drainage easements on, over or under any part of the Common Areas;

(h) the right of the Association, in accordance with its By Laws, to give or sell all or any part of the Common Areas including a leasehold interest, to any public agency, public authority, public service district, utility company or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift, sale or determination as to purposes and conditions shall be authorized unless such gift, sale, or determination as to purposes and conditions shall be authorized by the affirmative vote of at least two-thirds (2/3) of the total number of votes which may be voted by all the Members regardless of class, present or represented by proxy at a meeting called for such purposes, a quorum being present. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Areas prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by Members;

(i) restrictions and limitations affecting all Property of the Development as set forth in the general covenants; and

(j) the rights that others may have, as referred to in Section 9.01, to use certain Common Areas.

Section 9.04 EASEMENTS OF JOINT OWNERS. In those instances where a Lot or Dwelling Unit is owned by two or more entities or persons (who do not have the relationship of spouse, parent or minor child, one to the other) or by a trust, corporation, partnership or any other form of legal entity, such owners, trust, corporation or partnership or other entity shall annually appoint by written designation one person as the "Primary Member". Such Primary Member shall have the same easement of enjoyment of Common Areas as Members who own or occupy such Property singularly. The remaining Members, fiduciaries, beneficiaries, officers or partners [in a number not to exceed six] shall be entitled as easement of enjoyment subject to the limitations set forth in this Declaration in the Common Areas, by each paying to the Association annually an amount equal to 10 percent (10%) of the annual assessment charged against the Property owned by such persons, trusts, partnerships, corporation or entity. This provision shall not apply to primary family members (husband, wife, son, step-son, daughter, step-daughter), subject to a maximum of two primary families per Dwelling Unit or Lot.

ARTICLE X

COVENANTS FOR ASSESSMENTS

Section 10.01 CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS. Each Owner, except the Developer, whether or not it shall be so expressed in any such deed to other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Developer or the Association as provided below the following: (1) annual assessments or charges; and (2) special assessments or charges for the purposes set forth in this Article, both such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments shall be a charge and continuing lien on the real Property and improvements thereon against which each assessment is made. Each such assessment together with interest thereon at a rate per annum equal to ten percent (10%) from the date of delinquency until collected (unless waived by the Board), and the costs of collection thereof, including reasonable attorneys' fees, shall also be the personal obligation of the Owner of such real Property at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessments, interest, penalties, and cost of collection. If an assessment is not paid within 45 days after the due date, such assessment shall then be delinquent and interest shall be added to the amount as provided herein and a penalty in an amount to be determined annually by the Developer or Board of Directors of the Association and consistently applied shall be added to such assessment, and further, the Association may bring an action at law against the Owner personally, and there shall be added to the amount of such assessment the Association's actual attorneys' fees and

disbursements related to such action. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and such actual counsel fees and disbursements together with the cost of the action. Unless otherwise provided and such actual counsel fees and disbursements together with the costs of the action. Unless otherwise provided by the Developer or Board of Directors, annual assessments shall be due and payable on or before the first day of the calendar year for which the assessments is due.

Section 10.02 PURPOSE OF THE ASSESSMENTS The assessments levied by the Association or the Developer shall be used exclusively for one or more of the following, if applicable, the improvement, landscaping, irrigation, replacement, maintenance, repair, enhancement, enlargement and operation of the recreational amenities, roadways, paths, tunnels, boardwalks, bridges, entrance and street signs, security systems, patrols and gates, entrance and street lights, insect control, vegetation control, drainage and/or irrigation systems and similar purposes which are for the benefit of Property Owners, including Common Areas, and to provide all services which the Developer or the Association is authorized to provide hereunder; including, but not limited to, payment of taxes and insurance, cost of labor and equipment, erosion control devices, materials, management supervision, accounting and Property owner information services, repayment of loans and such other action as is necessary to carry out its authorized functions. Such assessments shall not be used to maintain or repair any Property not belonging to the Association comprising a portion of the Common Properties.

The Developer or the Association, in their sole discretion, shall also have the authority to impose sanctions and reasonable monetary fines against any Property Owner who shall violate these Covenants, Conditions and Restrictions, the By-Laws or any other violation of any Rules and Regulations established by the Developer or Board of Directors. Such sanctions and monetary fines shall be treated as a Special Assessment against the Lot or Lots owned by that Property Owner and shall be enforced and collected in accordance with the Article X.

Section 10.03 APPLICATION OF "MAXIMUM" ASSESSMENT. The annual assessment, as set forth in the schedule herein below, and as annually increased pursuant to the provisions of subparagraph (b) below, shall be levied by the Association pursuant to Section 10.01. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by annual assessments less than those set out below, it may levy such lesser assessments. However, so long as the Developer is engaged in the Development of properties which are subject to the terms of this Declaration, the Association may not reduce annual assessments below those set out in subparagraph (a) of this Section without prior written consent of the Developer. The levy of annual assessments less than the maximum regular annual assessments in one year shall not affect the Board's right to levy the maximum regular annual assessments in subsequent years. If the Board of Directors shall levy less than the maximum regular annual

assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments.

(a) The maximum regular annual assessment shall be the sum determined by the Developer until such time as the Developer shall relinquish control to the Association. The regular annual assessment for the year beginning January 1, 2007 is \$800.00. The annual assessment for each year thereafter shall be due on January 1st and shall be paid no later than January 31st of that year or a \$50.00 late charge shall be assessed to any payment which is received after that date. Assessments shall be prorated for Lot purchases from the Developer based on due date of January 1st of year of purchase.

(b) From and after January 1, 2007, the maximum regular annual assessment for improved and for unimproved Lots may be increased, adjusted or reduced from year to year by the Board of Directors of the Association as the needs of the Property, in the Board's sole judgment, may require.

Section 10.04 SPECIAL ASSESSMENTS FOR IMPROVEMENTS AND ADDITIONS. In addition to the maximum regular annual assessment authorized by Section 10.03 hereof, the Association may also levy special assessments against the Property Owners for the following purposes:

(a) Construction or reconstruction, repair or replacement of capital improvements upon the Common areas, including the necessary fixtures and personal property related thereof;

(b) Additions to the Common Areas;

(c) Facilities and equipment required to offer the services authorized herein;

(d) Repayment of any loan made by the Association to enable it to perform the duties and functions authorized herein

Section 10.05 RESERVE FUNDS. The Association may establish reserve funds from its annual assessments to be held in reserve in an interest bearing account or in obligations of the United States, State of Alabama, or any agency of either or in Triple-A debt, or in prime commercial paper with a maturity of not more than nine months, as a reserve for (a) majority rehabilitation or major repairs, (b) emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss, (c) recurring periodic maintenance, and (d) initial costs of any new service to be performed by the Association.

Section 10.06 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. Notwithstanding anything in the foregoing to the contrary, the annual assessments provided for herein shall commence on January 1, 2007.

Section 10.07 DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot, in accordance with the assessment scheduled as provided hereinabove, and shall at that time direct the applicable thereto which shall be sent promptly to every Member subject thereto.

The Association shall upon written demand from any Owner at any time furnish to such Owner liable for any 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 against all but the Owner of payment of any assessment therein stated to have been paid.

Section 10.08 SUBORDINATION OF THE LIEN OF MORTGAGE. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments occurring subsequent to the date such mortgage becomes of record and, provided further, that upon a sale or transfer of such Property pursuant to foreclosure, or any other proceeding or deed in lieu of foreclosure, the title acquired by the purchaser of such Property shall be subject to the lien of such subsequent assessments.

Section 10.09 EXEMPT PROPERTY. The following property, individuals, partnerships or corporations subject to this Declaration shall be exempted from the assessments, charges and lien created herein:

- (a) the grantee in conveyance made for the purpose of granting utility and drainage easements
- (b) the Common Areas;
- (c) property which is used in the maintenance and service of facilities within Common Areas, or by non-profit, governmental or charitable institutions; and
- (d) [DELETED]

Section 10.10 ANNUAL STATEMENT. The President, Treasurer, or such other officer as may have custody of the funds of the Association, within 90 days after the close of each fiscal year of the Association, shall prepare and execute general itemized statements as of the close of such fiscal year showing the actual assets and liabilities of the Association, and a statement of revenues, costs, and expenses. The Association shall furnish to each Member of the Association who make a request therefore in

writing, a copy of such statement within 30 days after receipt of such request. Such copies may be furnished to the member either in person or by mail.

Section 10.11 ANNUAL BUDGET. The Board of Directors shall cause to be prepared and make available to all Members at the office of the Association at least 60 days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for such fiscal year. The financial books of the Association shall be available for inspection by all Members at the office of the Association at all reasonable times.

Section 10.12 CAPITALIZATION OF ASSOCIATION. Upon purchase of a Lot within the Development, each Owner shall contribute to the working capital fund of the Association the sum of \$200.00, which shall be collected at the time of the closing of the purchase of that Lot. Any amount paid into this fund shall not be considered an advance payment of annual assets.

Section 10.13 TRANSFER FEE. A Transfer Fee of \$100.00 shall be paid by the Purchaser of any Lot, except that no Transfer Fee shall be paid upon the initial conveyance of any Lot by the Developer.

ARTICLE XI

FUNCTIONS OF ASSOCIATION

Section 11.01 OWNERSHIP AND MAINTENANCE OF COMMON AREAS. The Association shall be authorized to own and/or operate and maintain the Common Areas and equipment, furnishings and improvements devoted thereto. Land included in Common Areas shall be used in the manner set forth by the Developer and/or the Association.

Section 11.02 SERVICES. The Association shall be authorized, but not required, to provide the following services:

- (a) employment of a manager, an independent contractor, or such other employees as are necessary to perform services for the Association;
- (b) cleanup and maintenance of all roadways, road medians and Common Areas within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (c) landscaping and landscape maintenance of roadways, sidewalk, walking and bicycle paths, access routes and any Common Areas;
- (d) lighting of roadways, sidewalks and paths through the Property;

- (e) insect and pest control to the extent that it is necessary and desirable in the judgment of the Board of Directors of the Association;
- (f) legal and scientific resources for the improvement of air and water quality within the Property;
- (g) construction of improvements on Common Areas as may be required to provide the services and equipment as authorized in this Article;
- (h) administrative services including but not limited to legal, accounting and financial services; and communication services informing Members of activities, notice of meetings, referenda and other matters incidents to the above listed services;
- (i) liability and hazard insurance covering improvements and activities on the Common Areas;
- (j) water, sewer and any necessary utility services not provided by a public body, private utility or the Developer;
- (k) exercise of any rights reserved by the Developer and transferred by the Developer to the Association, including, but not limited to all rights and functions of the Developer under the general covenants; and
- (l) taking of any and all actions necessary at the discretion of the Board of Directors to enforce this Declaration of all other covenants and restrictions affecting the properties of the Association and to perform any of the functions or services delegated to the Association in this Declaration or other covenants or restrictions or authorized by the Board of Directors.

Section 11.03 REDUCTION OF SERVICES. The Board of Directors of the Association shall periodically define and list a minimum level of services of the sort described in Section 11.02 to be furnished by the Association in any given year.

Section 11.04 OBLIGATIONS OF THE ASSOCIATION. The Association shall not be obligated to carry out or offer any of the functions or services specified by the provisions of the Article. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association or set forth in By-Laws, taking into consideration the funds available to the Association and the needs of the Members of the Association.

Section 11.05 MORTGAGE AND PLEDGE. The Board of Directors of the Association shall have the power and authority to mortgage the Property of the Association and to pledge the revenues of the Association as security for loans made to the Association to perform its authorized functions. The Developer may make loans to

the Association, subject to approval by the Developer of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the maximum regular annual assessments at any time there are outstanding any amounts owing the Developer from loans made by the Developer to the Association.

Section 11.06 TRANSFER OF AUTHORITY. This Declaration provides that Developer with various controls and rights, to be exercised (if at all) at the discretion of the Developer. This Declaration further provides that any of the Developer's rights and powers set forth herein may be specifically assigned to the Association. In the event that such powers are assigned of record to the Association, the Association shall promptly provide for appropriate procedures to perform its obligations pursuant to the powers transferred to it. Otherwise, the various controls and rights to be exercised (if at all) under this Declaration shall remain with the Developer until all Lots included herein or hereafter added by the Developer pursuant to Section 2.02 have been sold to Owners other than the Developer or 15 years from the date of the recording of this Declaration, whichever shall first occur.

ARTICLE XII

ARCHITECTURAL CONTROL BY ASSOCIATION

Section 12.01 BOARD. Upon assignment of the architectural control function by the Developer to the Association, the Association shall appoint an Architectural Review Committee composed of three (3) people, all of whom shall be appointed by the Board of Directors of the Association. At least one Member of the Association other than the officers, employees or agents of the Developer shall be a member of the Architectural Review Committee. The Board of Directors of the Association may establish the rules of procedure for the Architectural Review Committee in connection with the general covenants.

Section 12.02 ARCHITECTURAL REVIEW AND APPROVAL FOR THE PROPERTY. Upon assignment by the Developer of architectural control functions to the Association with respect to any Lot within the Development, the Architectural Review Committee shall function to ensure compliance with the restrictions set forth herein and respect to architectural review and approval. The Architectural Review Committee shall have the general rights of enforcement as set forth in this Declaration, including without limitation the right to enjoin violations.

Section 12.03 TRANSFER OF ARCHITECTURAL REVIEW AND APPROVAL. The Developer may assign its architectural control functions as provided in this Declaration, including those set forth in Article VI, at any time. The Association shall be required to accept such assignment and comply with the provisions contained in this Declaration. Thereafter, all architectural control functions of the Developer as provided in this Declaration shall be performed by the Association.

ARTICLE XII

AMENDMENT OF DECLARATION

Section 13.01 [DELETED]

Section 13.02 AMENDMENT BY ASSOCIATION.

Amendments to this Declaration may be proposed by either the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by an affirmative vote of Members of the Association entitled to vote not less than a majority of the votes entitled to be cast by all Members, regardless of class, as provided in the Declaration, the Association's Articles and Bylaws, whether meeting as Members or by instrument in writing signed by them. Upon any amendment or amendments to the Declaration being proposed by the said Board of Directors or Members, such proposed amendment or amendments shall be transmitted to the President of the Association or, in the absence of the President, such other officer of the Association, who shall thereupon call a special meeting of the members of the Association for a date not sooner than 20 days, not later than 60 days, from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary of the Association to give each Member written and printed notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than 10 days or more than 50 days before the date set for such special meeting. Such notice shall be given to any Institutional Mortgagee of record who requests such notices and provides an address therefore to the Association. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the Member at the Member's mailing address as it appears on the records of the Association, the postage thereon being prepaid. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such Member. At such special meeting, the amendment or amendments proposed must be approved by the affirmative vote which may be voted by all of the Members of the Association entitled to vote not less than two-thirds (2/3) of the total number of votes which may be voted by all of the Members, regardless of class, present or represented by proxy at a meeting called for such purposes, a quorum being present. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Office of the Judge of Probate of Baldwin County, Alabama within 20 days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording identifying the Declaration. Thereafter, a copy of said amendment or amendments, in the form in which the same were placed of record, shall

be delivered to all the Owners, but mailing or delivering a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments . The written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.01 DURATION. All covenants, restrictions and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Developer for a period of 30 years from the execution date of the Declaration, after which time all said covenants shall be automatically extended for successive periods of 10 years each, unless changed in whole or in part by an instrument approved by the affirmative vote of a majority of all the Members, regardless of class, present or represented by proxy at a meeting called for such purposes.

Section 14.02 ENFORCEMENT. This Declaration shall be enforceable by the Association, the Developer and the ARC, or by any Member of the Association by a proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain violation to recover damages, and to enforce any lien created by this Declaration. Failure by the Association, the Developer, the ARC, or any Member of the Association to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right of any of the foregoing to enforce the same thereafter.

Section 14.03 INTERPRETATION. The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and the determination of the Board shall be final and binding.

Section 14.04 SEVERABILITY. Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 14.05 NOTICE. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the address of

such Member appearing on the Association's Membership list not less than 30 days prior to the date of the meeting at which any proposed action is to be considered. Notice to one or more Co-Owners or co-tenants of a Lot shall be considered notice to all Co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes a Member following the first day of the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to the Member's predecessor in title.

Section 14.06 LIMITED LIABILITY. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer or the ARC contemplated under this Declaration, the Developer and the ARC shall not be liable to an Owner or to any other person on account of any claim liability, damage or expense suffered or incurred by or threatened against an Owner or such other person arising out of or in any way relating to the subject matter of any such review, acceptance, inspection, permission, consent or required approval, whether given, granted or withheld.

Section 14.07 TERMINATION OF ASSOCIATION. In the event that this Declaration is declared to be void, invalid, illegal or unenforceable in its entirety, or in such a significant manner that the association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, or if the Members of the Association should vote not to renew and extend this Declaration as provided for herein, all Common Areas owned by the Association at such time shall be transferred to a Trustee appointed by the Circuit Court of Baldwin County, Alabama, which Trustee shall own and operate said Common Areas for the use and benefit of Owners within the Property as set forth below.

- (a) Each Owner of any Lot shall be subject to an annual assessment which shall be paid by the Owner to the Trustee. The amount of such annual assessment and its due date shall be determined by the Trustee, in accordance with the provisions of Article XI.
- (b) The Trustee shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Areas as provided in this Declaration. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. The Trustee shall not have the obligation to provide for the operation, maintenance, repair and upkeep of the Common Areas once the funds provided by the annual assessments have been exhausted.

Section 14.08 OTHER PROPERTY NOT SUBJECT TO DECLARATION. This Declaration shall not apply to or affect any other property owned by the Developer or located adjacent to or contiguous to the Property which is not specifically subjected to this Declaration by the Developer by written instrument recorded in the Public Records.

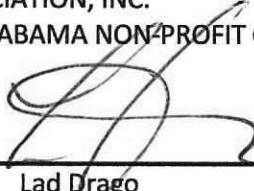
Section 14.09 ADDITIONAL RESTRICTIONS. The Developer hereby reserves the right to add additional restrictive covenants in the future which may apply to any portion of the Property which has not been conveyed by the Developer to any grantee.

Section 14.10 SUCCESSORS TO DEVELOPER. The Developer reserves the right to assign to the Association or to any other entity any of its rights or functions reserved in these Covenants, including, but not limited to, its rights to approve (or disapprove) plans and specifications of proposed improvements, its right to amend this Declaration, and its right of enforcement.

Section 14.11 CAPTIONS. The captions in this Declaration are for convenience only and are not a part of this Declaration and do not in any way limit or amplify the terms or provisions of this Declaration.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed by its duly authorized officers on the date set forth in the acknowledgement below, but as of the date above first set forth.

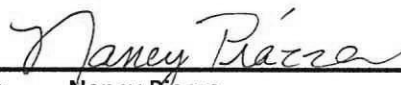
BEAU CHENE ESTATES PROPERTY OWNERS
ASSOCIATION, INC.
AN ALABAMA NON-PROFIT CORPORATION



By: Lad Drago
Its: President



By: William E. Blackmon
Its: Vice President



By: Nancy Riazza
Its: Secretary and Treasurer

STATE OF ALABAMA
COUNTY OF BALDWIN

Before me, a Notary Public in and for said County in said State, hereby certify that LAD DRAGO, as president of Beau Chene Estates Property Owners Association, Inc., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, informed of the contents of said instrument, he executed the same with full authority of office, voluntarily on the day the same bears date.

Given under my hand and seal on this the 22 day of June, 2016.

Patricia W. Zorio

Notary Public

My Commission Expires: 5/27/2020

STATE OF ALABAMA
COUNTY OF BALDWIN

Before me, a Notary Public in and for said County in said State, hereby certify that WILLIAM E. BLACKMON, as Vice President of Beau Chene Estates Property Owners Association, Inc., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, informed of the contents of said instrument, he executed the same with full authority of office, voluntarily on the day the same bears date.

Given under my hand and seal on this the 14th day of June, 2016.

Angie M. Hennen

Notary Public

My Commission Expires: 08/07/2017

STATE OF ALABAMA
COUNTY OF BALDWIN

Before me, a Notary Public in and for said County in said State, hereby certify that NANCY PIAZZA, as Secretary and Treasurer of Beau Chene Estates Property Owners Association, Inc., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, informed of the contents of said instrument, he executed the same with full authority of office, voluntarily on the day the same bears date.

Given under my hand and seal on this the 15th day of June, 2016.

Shanna Leigh Flynn

Notary Public

My Commission Expires: 6/3/18

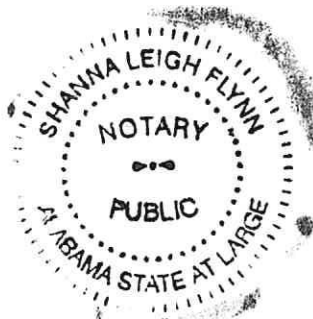


EXHIBIT "A"

(EXAMPLES OF APPROVED FENCING)

Fences, Privacy Walls & Hedges

Fences are an integral detail to the design element of Beau Chene Estates. It is encouraged that property dividing fences be small in scale with a maximum height of 4' and simple in design. Privacy fences shall be permissible, pending review by the ARC. The privacy fences shall be pre-finished and limited to 6' in height.

This page illustrates several examples of fences that would be appropriate. It is encouraged that each owner be creative with their fence design, so that they become decorative and complimentary to the main house design. Material for the fences must be wood, brick stucco, wrought iron, or pre-approved material by the ARC. Fences are encouraged to incorporate the detail elements of the home.

All fence colors shall be submitted for approval by the ARC.

Trash enclosures shall be decorative and similar in nature to the fence designs. All containers, compressors and other miscellaneous equipment shall be screened from the road to reduce negative visual impact on the community.

Typical Fence Patterns

