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Michael L. Davis
Judge of Probate
Limestone County, AL

**DECLARATION
OF PROTECTIVE COVENANTS
FOR
HERITAGE PROVENCE
SUBDIVISION**

Prepared by:

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**DECLARATION
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FOR
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SUBDIVISION**

RPV 2001 43832

THIS DECLARATION is made on the date hereinafter set forth by Heritage Plantation, Inc., an Alabama corporation (hereinafter sometimes called "Declarant").

**BACKGROUND
STATEMENT**

Declarant is the owner of the real property described in Article II, Section 1, of this Declaration.

Declarant desires to subject the real property described in Article II, Section 1, hereof to the provisions of this Declaration to create a residential community and to provide the mechanism for the subjecting of other real property to the provisions of this Declaration.

Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of property subject to, or hereinafter subject to these protective covenants. Declarant desires to establish a method for the maintenance, preservation, use, and enjoyment of the property that is now or hereafter subjected to this Declaration.

Declarant hereby declares that the real property described in Article II, Section 1, of this Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal

representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner and occupant of all or any portion thereof.

ARTICLE I
Definitions

Unless the context shall prohibit, certain words used in this Declaration shall have the definition meaning set forth in Exhibit "A", attached hereto and by reference made a part hereof.

ARTICLE II
Property Subject to This Declaration

Section 1. Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property described in Exhibit "B", attached hereto and by reference made a part hereof.

Section 2. Other Property. Only real property described in Section 1 of this Article II is hereby made subject to this Declaration; provided, however, by one (1) or more Supplementary Declarations, Declarant has the right, but not the obligation, to subject real property to this Declaration, as hereinafter provided in Article X.

ARTICLE III
Association Membership and Voting Rights

Section 1. Membership. Every Owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from ownership.

Section 2. Voting. Owners shall be entitled to one (1) vote for each Residence owned. When more than one (1) Person holds an ownership interest in any Residence, the vote for such Residence shall be exercised as those Owners themselves determine. In the event of a dispute, the

vote shall be suspended if more than one (1) Person seeks to exercise it. Those Owners of property, if any, which is exempt from assessments as provided in Article IV, Section 11, hereof are Members of the Association and are subject to the provisions of this Declaration, but are not Owners of Residences and shall not, therefore, be entitled to vote.

Any Owner of a Residence not occupied by the Owner may, in the lease or other written instrument, assign the Owner's voting right appurtenant to that Residence to the Occupant, provided that a copy of such instrument is furnished to the Secretary within the time period prescribed by the Secretary. In the event of such assignment, the Occupant may vote the Owner's vote on all issues upon which the Owner would be entitled to vote.

An Owner's right to vote may be suspended as provided in Article XII, Section 2, of this Declaration.

**ARTICLE IV
Assessments**

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefits, and enjoyment of the Owners and Occupants in the Community, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Type of Assessments. Each Owner of any Residence, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) General Assessments; (b) Special assessments, such assessments to be established and collected as hereinafter provided in Article IV, Section 5; and (c) Specific assessments against

any particular Residence which are established pursuant to the terms of this Declaration, including, but not limited to, those assessments established by Article IV, Section 10, and Article V, Section 2, hereof and reasonable fines as may be imposed in accordance with the terms of the Declaration and By-Laws. General Assessments shall be levied for Association Expenses determined by the Board to benefit all Owners and Occupants. General Assessments shall be allocated among all Residences in the Community.

Section 3. Creation of Lien and Personal Obligation for Assessments. All assessments, together with late charges, interest at a rate equal to the lesser of fifteen (15%) percent or the maximum lawful rate, costs, and reasonable attorney's fees actually incurred shall be a charge on the land and shall be a continuing lien upon the Residence against which each assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligations of the Person who was the Owner of such Residence at the time the assessment fell due. Each such Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Residence, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgage holder taking title through foreclosure proceedings or deed in lieu of foreclosure.

General Assessments and other assessments, unless otherwise provided by the Board, shall be paid in annual, semi-annual, or quarterly installments as the Board determines. The General Assessment for the first year shall be \$400.00.

Section 4. Budget. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve.

The Board Shall cause the budget and the assessments to be levied against each residence for the following year to be delivered to each Residence Owner at least thirty (30) days prior to the end of the current fiscal year. The Board may not, without the consent of Declarant (so long as Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof) and the vote or written assent of at least a Majority of the total Association vote entitled to vote thereon, impose a General Assessment per Residence which is more than one hundred twenty (120%) percent of the General Assessment for the immediately preceding fiscal year. In the event that the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the current year shall continue for the succeeding year.

Section 5. Special Assessments. In addition to the other assessments authorized herein, the Board may levy special assessments in any year. So long as the total amount of special assessments allocable to each Residence does not exceed the amount of the current General Assessment in any one (1) fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Residence to exceed this limitation shall be effective only if approved by a majority of the total Association vote entitled to vote thereon and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof, the consent of Declarant. Special assessments shall be paid as

determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 6. Lien for Assessments. All sums assessed against any property subject to this Declaration pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such property in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such property, except for (a) liens of ad valorem taxes; and (b) liens for all sums unpaid on a first Mortgage.

All other Persons acquiring liens or encumbrances on any property subject to this Declaration after this Declaration shall have been recorded in the records of the Office of the Judge of Probate, Madison County, Alabama shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid in full by the date specified by the Board, ("due date"), shall be delinquent. Any assessment delinquent shall incur a late charge of five and no/100 (\$5.00) dollars, per day, or in such amount as the Board may from time to time determine. If the assessment is not paid when due, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after ninety (90) days, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose

its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association and its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting through the Board and on behalf of the Owners, shall have the power to bid at any foreclosure sale or to acquire, hold, lease, mortgage, or convey foreclosed property. No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, by non-use of Common Property, or abandonment of the Residence. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Section 8. Date of Commencement of Assessments. The assessments provided for herein shall commence as to each Lot subject to this Declaration on the first anniversary following the conveyance of the Lot by Declarant to an Owner; or earlier if a certificate of occupancy is granted within said year. An Assessment shall be adjusted according to the number of months remaining in

the fiscal year during which the Residence became subject to assessment. Notwithstanding the foregoing, the Declarant, and any Lots owned by the Declarant, shall be exempt from the payment of any assessments due hereunder. Furthermore, in the event a property is sold to a Builder (a "Builder" is a person who holds a Builder's License or a General Contractors license for the State of Alabama) for the purpose of resale, the property will not be assessed until such time that it is sold as a residence or until two years have passed from the conveyance by Declarant to Builder. In the event that a Property is sold to a Builder for his personal home, Assessments will commence upon the issuance of a Certificate of Occupancy.

Section 9. Advance Payment. The Board is specifically authorized to enter into such advance payment contracts with Declarant or other entities as may be mutually agreed to for the payment of some portion of the Association Expenses; provided, however, the Veterans Administration shall be advised of and approve any form of such contract entered into between the Declarant and Association if the Veterans Administration is guaranteeing any Mortgage in the Community. Such contract or contracts shall be for the benefits of and enforceable by the Association.

Section 10. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Residences

for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

- (a) Expenses of the Association which benefit less than all of the Residences may be specifically assessed equitably among all of the Residences which are benefitted according to the benefit received.
- (b) Expenses of the Association which benefit all Residences, but which do not provide an equal benefit to all Residences, may be specifically assessed equitably among all Residences according to the benefit received.

Section 11. Exempt Property. The following property shall be exempt from General Assessments and special and specific assessments:

- (a) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, public parks, conservation areas, roads, rights-of-way, streets and easements; and
- (b) all property owned by non-profit organizations and restricted for use as private schools, churches or conservation areas; provided, however, the availability of the exemption for such non-profit organizations is contingent upon prior approval by the Board.

ARTICLE V
Maintenance: Conveyance of Common Property
by Declarant to Association

Section 1. Association's Maintenance Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. In addition, if the following property exists in the Community, the Association may, as determined by the Board, maintain part or all of such property, regardless of whether it is Common Property: Community hiking and biking trails; Community dock

areas; grass and other landscaping along dedicated rights-of-way; sedimentation ponds; Community entrance features; and lakes and dams.

The Association shall also have the right, but not the obligation, to maintain and provide services for other property not owned by the Association, whether located within or without the boundaries of the Community, and to enter into leases, easements and covenants and to share costs agreements regarding such property (and any other property) where the Board has determined that this would benefit Owners.

The foregoing maintenance costs shall be assessed as a part of the General Assessment or specific assessments, as determined by the Board in accordance with this Declaration.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

Section 2. Owner's Maintenance Responsibility. Each Owner shall maintain or cause to be maintained in a safe, clean and attractive condition all property subject to this Declaration which is owned directly or indirectly by such Owner in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance obligation shall include, without limitation, the following: Prompt removal of all litter, trash, refuse, and waste; lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping improvements, exterior lighting, and maintenance facilities in good repair and working order; keeping lawn and garden areas alive, free of weeds, and attractive; keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damages to improvements. In the event that the Board determines that (a) any Owner or designee of the Owner, as designee is defined below, has failed or refused to discharge properly his obligations with regard to the maintenance, repair or replacement of

items for which he is responsible hereunder; or (b) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, invitees, or designee then, the Association may perform the repair, replacement or maintenance and shall, except in the event of any emergency situation, give the Owner or designee written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's or the Owner's designee's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner or his designee shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be treated as a specific assessment against the Owner and the property owned by the Owner.

Section 3. Conveyance of Common Property by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association. Declarant shall have the right, without limitation, to include Lakes and Dams in the property that may be conveyed by Declarant and which shall be accepted by the Association.

Section 4. Additional Improvements. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any lake that may be conveyed.

ARTICLE VI
Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may only be amended in the manner provided in Article XIII, Section 4, hereof regarding amendment of this Declaration. In addition, the Board, by a two-thirds (2/3) vote, may, from time to time, without consent of the Members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. This authority shall include, but shall not be limited to, the right to limit the type and size of vehicles within the Community and to set the maximum and minimum speeds of vehicles on private streets within the Community and to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the Community. The Board may also restrict certain portions of the recreational facilities administered by the Association to adults only. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the total Association vote entitled to vote thereon and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof, the consent of Declarant.

Section 2. Residential Use. All Residences shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on in or upon any Residence at any time except with the written approval of the Board. Leasing of a Residence shall not be considered a business or business activity. However, the Board may permit Residence to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or By-Laws, does not create a disturbance. The Board may issue rules regarding permitted business activities.

Section 3. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the Architectural Review Committee. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs, and "For Sale" and "For Rent" signs consistent with the Community-Wide Standard may be erected upon any Residence.

Section 4. Vehicles and Garages. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. Unless and except to the extent that the Occupants of a Residence shall have more vehicles than the number of parking areas serving their Residence, all vehicles shall be parked within such parking areas. Where the Residence contains a garage, "parking areas" shall refer to the number of garage parking spaces.

No vehicle may be left upon any street in the community other than infrequent visitors when the parking area is fully occupied. For the purposes of this restriction, "infrequent" shall mean less than 12 hours a week.

No vehicle may be left upon any portion of the Community, except in a garage or other area designated by the Board, for a period longer than five (5) days if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. After such five (5) day period, such vehicle shall be considered a nuisance and may be removed from the Community. Any towed vehicle, boat, recreational vehicle, motor home, or mobile home regularly stored in the Community or temporarily kept in the Community, except if kept in a garage or other area designated by the Board, for periods longer than twenty-four (24) hours each shall be considered a nuisance and may be removed from the Community. Trucks with mounted campers which are an Owner's or Occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.

All single-family detached Residences shall contain, as a minimum, a two-car garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage. No vehicle, other than an Owners standard means of transportation, e.g., car, truck, SUV, or van, should be in view from the street (they should either be in a garage or in the rear yard behind fence. An Owner with more vehicles than parking spaces in a garage may park the extra vehicles (or the vehicles of guests, children, domestic employees, etc.) in their driveway. No parking whatsoever is permitted in the front yard.

Section 5. Leasing. Residences may be leased for residential purposes. All leases shall have a minimum term of six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's property.

Section 6. Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be additionally levied against the Owner.

Section 7. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Residence, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board; provided, however, those pets which are permitted to roam free, or in the sole discretion of the Board, endanger health, make objectionable noise, (including, but not limited to barking dogs) or constitute a nuisance or inconvenience to the Association members or Occupants or the owner of any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Residence be on a leash or otherwise confined in a manner acceptable to the Board.

Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.

Section 8. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Residence to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community.

Section 9. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

Section 10. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community,

except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee established by the Board. The following items, without limitation, will be submitted to the Architectural Review Committee for new home construction: house plans, site plans, landscaping plans, and exterior color and material schedule. The Board may employ for the Architectural Review Committee architects, engineers, or other Persons necessary to enable the Committee to perform its review. The Architectural Review Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified persons, which shall have full authority to act on behalf of the committee for all matters delegated and in the event of such delegation, the applicant shall be required to pay any fees charged by such architects or other qualified persons.

In the event that the Architectural Review Committee fails to approve or to disapprove submitted plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this Section, an Owner, on behalf of himself and his successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the Architectural Review Committee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of himself and his successors-in-interest. The Architectural Review Committee shall be the sole arbiter of such plans and may

withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in Article XIII, Section 1, hereof, record in the appropriate land records a notice of violation naming the violating Owner.

Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Review Committee, the members thereof, nor the Association assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, the Architectural Review Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby

waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

Section 11. Antennas. No exterior antennas of any kind shall be placed, allowed, or maintained upon any portion of the Community, including any Residence without the prior written consent of the Board or its designee. No free standing antennas whatsoever shall be placed on any Residence. The Board or its designee may approve the installation of radio antennas which do not protrude above the roof line of the Residence at its highest point and are not visible from the street in front of the Residence. Each Owner and Occupant acknowledges that this provision benefits all Owners and Occupants and each Owner and Occupant agrees to comply with this provision despite the fact that the erection of an outdoor antenna or similar device would be the most cost-effective way to transmit or receive the signals sought to be transmitted or received. The erection of small satellite dish may be permitted, however, the size and location must be approved by the Architectural Review Committee.

Section 12. Tree Removal. No trees shall be removed without the express consent of the Board or its designee, except for (a) diseased or dead trees; (b) trees less than six (6) inches in diameter; (c) trees needing to be removed for safety reasons; or (d) trees in the immediate location of building approved by the Architectural Review Committee.

Section 13. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains except with the permission of the Architectural Review Committee. Declarant hereby reserves a perpetual easement across all Community property for the purpose of

altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 14. Site Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where this would create a traffic or sight problem.

Section 15. Clotheslines, Garbage Cans, Woodpiles, Etc. All clotheslines, garbage cans, woodpiles, swimming pool pumps, filters and related equipment, air conditioning compressors and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Declarant, however, hereby expressly reserves the right to dump and bury rocks on property within the Community as needed for efficient construction and to allow developers and builders within the Community to bury rocks removed from a building site on such building site. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community, except when done during the normal construction of a residence or by Declarant. During Construction all trash must be contained on the Lot in a roll-off container located within 100 feet of the home under construction. Each construction site must be maintained in a safe, clean and orderly condition and shall include a portable toilet until such facilities are available in the home for construction workers.

Section 16. Subdivision of Residence. No Residence shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant,

however, hereby expressly reserves the right to replat any Residence or Residences owned by Declarant during the time in which declarant may annex property. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 17. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and firearms of all types.

Section 18. Fencing. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Residence, without the prior written consent of the Board or its designee. Except for approved privacy fences erected around patios, there shall be no solid fences erected in the back yards of residences of Lake Lot Owners, nor any other structure closer than forty (40) feet to the back lot line. The intent of this regulation as related to Lake Lot Owners is to present an aesthetically pleasing, "non-walled off" appearance from, to, and in the vicinity of Lakes. With approval of the Board, a four (4) feet high wrought iron fence may be erected.

Section 19. Lakes. This Section, Article XII, Sections 5 and 7 of this Declaration, and rules, use restrictions and design guidelines issued by the Board or its designee shall govern the use of such lakes as may exist in the Community or such lakes as are made available for the use of all Owners and Occupants in the Community and activities related thereto. Fishing shall be permitted so long as a license is obtained from the appropriate governmental authority. Swimming, ice skating and water skiing shall not be permitted, except as specifically approved by the Board. Unless approved by the Board or its designee, no Owner may construct a dock. Retaining walls and similar structures shall not be installed without the prior written approval of the Board or its designee. Except as may be approved by the Board or its designee, boats shall not be permitted on the lakes.

Section 20. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

Section 21. Air-Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed.

Section 22. Lighting. Except for approved lighting as originally installed on a Residence, exterior lighting visible from the street shall not be permitted, except for (a) two (2) decorative post lights; (b) a street light in conformity with an established street lighting program for the Community; (c) seasonal decorative lights at Christmas; or (d) front house illumination of model homes. Ground level landscape lighting may be permitted as approved by the Architectural Review Committee.

Section 23. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the Board or its designee.

Section 24. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Board or its designee.

Section 25. Above-Ground Swimming Pools. Except as may be permitted by the Board or its designee, above ground swimming pools shall not be erected.

Section 26. Driveways. Except as may be permitted by the Board or its designee, driveways shall be constructed with concrete.

Section 27. Exteriors. Except as may be permitted by the Board or its designee, the exterior of all improvements including, without limitation, Residences must be repainted in a color used in the original construction of Residences within the Community. No Residence exterior shall be constructed of untreated wood. All such wood exteriors must be painted or specifically approved by the Architectural Review Committee.

Section 28. Window Coverings. The portion of all window coverings visible from the exterior of any Residence shall be white or off-white or neutral unless otherwise prior approved by the Board or its designee. Aluminum foil on windowpanes, mirrored or reflective glass is not allowed.

Section 29. Chimneys. All chimneys that are on the exterior wall must have either brick or stone on the three exterior sides of the chimney. Interior chimneys may have either a siding or stucco product on all four sides of the chimney.

Section 30. Lake and Park Lot Restrictions. Notwithstanding any other subdivision restrictions, lot that abuts either the Community's lake or a designated park area shall not be allowed to have a detached garage or accessory building. The provision may be specifically exempted by the Architectural Review Committee, but will only be considered because of unusual architectural constraints, in the sole discretion of said committee.

Section 31. Mailboxes. Only approved mailboxes can be installed in the community. Each mailbox must be the designated model of the Board. Each mailbox shall have a black finish.

Section 32. Landscaping. The purpose of this restriction is to promote landscape development of single family residential lots that will preserve and appreciate the value of the

development by promoting a high quality, cohesive level of landscaping. These requirements may be altered or amended at the discretion of the Architectural Review Committee.

Guideline for Landscaping Planning:

- (a) Existing vegetation and trees should be preserved whenever possible to provide screening and lend an established feeling to the Community.
- (b) Shrubs should be well distributed, but not necessarily evenly spaced. Shrubs may be used for screening and to minimize the visual impact of driveways and parking areas.
- (c) Sod shall be installed in the front yard side yard and in no less than 15 feet of the rear yard.
- (d) Earth berms may be used to create a sense of enclosure and to screen driveways, especially if planted with shrubbery.
- (e) Unified mulched planting beds edged in materials such as brick, steel or wood look neat longer and their shape is preserved.
- (f) Exterior building material colors should be considered when selecting flowering trees and shrubs so that colors will not compete with or negate each other.

General Landscape Requirements:

A landscape plan shall be included as part of the lot development package submittal. This plan will include the entire lot and indicate the following:

- (a) General information, including date, north arrow, and scale of one inch to no more than fifty feet; all property lines, locations of all easements and rights-of-way; name and telephone numbers of Builder and Owner.
- (b) Construction information, including the locations of buildings, driveways, walks, walls, fences, and terraces.
- (c) Locations, caliper, species (common name), and intended treatment (move, remove, or save) of existing trees six inches or greater at breast height.

(d) A schedule of all new and existing required plants proposed for landscaping, including size (caliper and height, container size, etc.) common names (genus, species, and variety) of trees, shrubs, and ground cover, and type and amount of turf grasses.

Section 33. Screening of Heating and Cooling Units. All exterior heat and air conditioning compressors or air handlers must be screened from view. This can be accomplished with either vegetation, brick and/or stone or may be behind a fence, as approved by the Architectural Review Committee. If vegetation is used it must create a walled off effect. The screening is encouraged on all sides of the equipment but is required on the front and side of the equipment.

Section 34. Storage Tanks. Any storage tank must be approved by the architectural control committee and, if approved, must be buried, or, if they are less than fifty-gallon capacity, may, with the architectural review committee's approval, be installed above ground, if properly screened.

Section 35. Home Size. No home shall be constructed in excess of two stories. Basements are permitted and shall not count toward the levels of the home permitted by this section.

Section 36. Basketball Goals. No basketball goals may be placed, erected or constructed on the front portion of any Residence. Only Board approved basketball goals may be placed, erected or constructed on the rear or side portion of any lot, no closer to the street than the midpoint of the dwelling. No basketball goal may be erected over a garage.

Section 37. Specific Subdivision Restrictions.

Somerset Subdivision:

1. Architectural Standards

(a) All dwellings and permitted accessory buildings constructed on the lots of said subdivision shall have an exterior of at least fifty percent stone or masonry brick construction, with no less than forty percent of the exterior of

the sides of the dwellings or buildings consisting of stone or masonry brick unless, in the sole discretion of the Architectural Review Committee, the style and exterior of the dwelling shall be deemed to architecturally enhance the community. Visible unpainted red "sewer brick" will not be allowed.

(b) All foundations must be brick or stone with no exposed concrete or masonry block.

(c) While slab foundations are permitted all foundations must be a minimum of 12" above grade with a minimum of one step from the finished floor to ground level in the front of the dwelling.

(d) Side or Rear entry garages are encouraged. Front entry garages will be allowed if placed to the rear of the dwelling.

(e) Roofs of dwellings constructed on all of said lots shall be of regular or architectural grade shingles.

(f) Dwellings constructed on the lots of said subdivision shall have at least one thousand five hundred (1500) square feet of heated area.

(g) All dwellings shall have a roof pitch of 8/12 or greater on the main roof.

(h) No two dwellings with the same elevation will be built within 240 feet of each structure facing on the same street

2. Landscape Requirements

(a) The front yard of each lot shall be planted with two large trees (i, ii, iii) and two small trees (iv, v), to include no more than one evergreen. Shrubbery required in the front yard shall be a minimum of twelve shrubs, at least half of which shall be species evergreen in this climate. Shrubs shall be planted in a bed of mulch or ground cover other than turf grass.

(b) The rear yard shall be planted with one large tree (4.i, ii, iii), and two small trees (4.iv, v).

(c) All proposed trees shall conform to be the minimum size standard listed below, based on American Standards for Nursery Stock, ANSI Z60.1, published by the American Association of Nurserymen and approved by the American National Standards Institute, as follows:

Suggested Large Trees:

- (i) Type 1, Shade trees, 2.5" caliper, 12' height range - Sugar Maple, Red Maple, Tulip Poplar, Sycamore, Red Oak, White Oak, and Willow Oak.
- (ii) Type 2, Shade trees, 1.5" caliper, 6' to 8' height range - Weeping Willow, Bradford Pear, Golden Rain Tree, Southern Magnolia, Zelkova, River Birch and European Birch.
- (iii) Type 5, Coniferous Evergreens, 5' to 6' height range - Pine species, Hemlock and Spruce.

Suggested Smaller Trees:

- (iv) Type 3, Small upright trees, 1" caliper, 6' to 7' height range - Redbud, Crabapple, Crepe Myrtle, Cherry Laurel, and Flowering Plum.
- (v) Type 4, Small spreading trees, 5' to 6' height range - Flowering Dogwood, Star Magnolia, Flowering Cherry, and Japanese Maple.

(d) If existing trees meet requirements of this covenant in all respects, required trees of the covenant may be omitted. Each existing tree meeting requirements may count, at the option of the owner, for one of the trees in its required class, provided it:

- (i) Is not one of the following species: Box elder, silver maple, catalpa, cottonwood, camphor, mimosa, chinaberry, princess tree, or Siberian elm.
- (ii) Has a live crown and is free from serious root, trunk, and crown injury.
- (iii) Is indicated on the landscaping plan as a tree "to be saved."
- (iv) Is situated so that it can be incorporated into the landscape with minimal grade, cut, or fill under the drip line of the tree.

(e) Ground cover may include shrubs and low-growing plants such as Liriope,

English ivy, Periwinkle, and similar material. Ground cover may also include non-living organic material such as bark and pine straw.

(f) All trees greater than six inches in diameter at breast heights shall be preserved, unless removal of them is part of an approved plan.

(g) The lot shall be completely landscaped. However, planned natural areas will be allowed provided that the lawn and the natural area form a cohesive whole.

(h) Driveways shall coordinate with topography and existing vegetation to preserve all trees greater than six inches in diameter at breast height.

(i) Each lot Owner must submit a landscaping plan and must completely install such plan within ninety days of occupying the residence. Additionally, each lot Owner must maintain his lawn in as good or better condition than his original landscaping plan. It is not the intention of the architectural control committee to monitor every planting in Heritage Provence, but if a lawn, at the sole discretion of the architectural control committee, has deteriorated and/or was never installed properly, then the lot Owner will be required to bring his lot into compliance with the guidelines.

3. Fences.

Fences shall be either Wrought Iron, Vinyl Picket style no taller than 4 feet, or 6' Wood Shadowbox style with arched tops and decorative posts. All wood fences shall be stained with "Cedar" stain by "Glidden ICI Dulux", within 90 days of installation.

4. Party Walls and Party Fences.

Each wall or fence built as a part of the original construction of any Residence in Somerset Subdivision, which shall serve and separate any two (2) adjoining Residences shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions. Provided, however, that any painting or staining of a fence shall not be considered a maintenance item. The painting or staining (after the initial required stain/paint is applied) of a fence shall be the sole expense of the party wishing to re-stain or repaint.

In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore by the Board, the Board shall

appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

Canterbury Subdivision:

1. Architectural Standards

- (a) All dwellings and permitted accessory buildings constructed on the lots of said subdivision shall have an exterior of at least fifty percent stone or masonry brick construction, with no less than forty percent of the exterior of the sides of the dwellings or buildings consisting stone or masonry brick Unless, in the sole discretion of the Architectural Control Committee, the style and exterior of the dwelling shall be deemed to architecturally enhance the community. Visible unpainted red "sewer brick" will not be allowed.
- (b) All foundations must be brick or stone with no exposed concrete or masonry block.
- (c) While slab foundations are permitted all foundations must be a minimum of 12" above grade with a minimum of one step from the finished floor to ground level in the front of the dwelling.
- (d) All dwellings must have either a side or rear entry garage.
- (e) Roofs of dwellings constructed on all of said lots shall be of regular or architectural grade shingles.
- (f) Dwellings constructed on the lots of said subdivision shall have at least one thousand eight hundred (1800) square feet of heated area.
- (g) All dwellings shall have a roof pitch of 7/12 or greater on the main roof of the dwelling.
- (h) No two dwellings with the same elevation will be built within 320 feet of each structure facing on the same street.

2. Landscaping Requirements

- (a) The front yard of each lot shall be planted with two large trees (i, ii, iii) and two small trees (iv, v), to include no more than one evergreen. Shrubbery required in the front yard shall be a minimum of twelve shrubs, at least half of which shall be species evergreen in this climate. Shrubs shall be planted in a bed of mulch or ground cover other than turf grass.
- (b) The rear yard shall be planted with two large trees (i, ii, iii), and two small trees (iv, v).
- (c) All proposed trees shall conform to be the minimum size standard listed below, based on American Standards for Nursery Stock, ANSI Z60.1, published by the American Association of Nurserymen and approved by the American National Standards Institute, as follows:

Suggested Large Trees:

- (i) Type 1, Shade trees, 2.5" caliper, 12' height range - Sugar Maple, Red Maple, Tulip Poplar, Sycamore, Red Oak, White Oak, and Willow Oak.
- (ii) Type 2, Shade trees, 1.5" caliper, 6' to 8' height range - Weeping Willow, Bradford Pear, Golden Rain Tree, Southern Magnolia, Zelkova, River Birch and European Birch.
- (iii) Type 5, Coniferous Evergreens, 5' to 6' height range - Pine species, Hemlock and Spruce.

Suggested Smaller Trees:

- (iv) Type 3, Small upright trees, 1" caliper, 6' to 7' height range - Redbud, Crabapple, Crepe Myrtle, Cherry Laurel, and Flowering Plum.
- (v) Type 4, Small spreading trees, 5' to 6' height range - Flowering Dogwood, Star Magnolia, Flowering Cherry, and Japanese Maple.
- (d) If existing trees meet requirements of this covenant in all respects, required trees of the covenant may be omitted. Each existing tree meeting requirements may count, at the option of the owner, for one of the trees in its required class, provided it:

- (i) Is not one of the following species: Box elder, silver maple, catalpa, cottonwood, camphor, mimosa, chinaberry, princess tree, or Siberian elm.
 - (ii) Has a live crown and is free from serious root, trunk, and crown injury.
 - (iii) Is indicated on the landscaping plan as a tree "to be saved."
 - (iv) Is situated so that it can be incorporated into the landscape with minimal grade, cut, or fill under the drip line of the tree.
- (e) Ground cover may include shrubs and low-growing plants such as Liriope, English Ivy, Periwinkle, and similar material. Ground cover may also include non-living organic material such as bark and pine straw.
- (f) All trees greater than six inches in diameter at breast heights shall be preserved, unless removal of them is part of an approved plan.
- (g) The lot shall be completely landscaped. However, planned natural areas will be allowed provided that the lawn and the natural area form a cohesive whole.
- (h) Driveways shall coordinate with topography and existing vegetation to preserve all trees greater than six inches in diameter at breast height.
- (i) Each lot owner must submit a landscaping plan and must completely install such plan within ninety days of occupying the residence. Additionally, each lot owner must maintain his lawn in as good or better condition than his original landscaping plan. It is not the intention of the Architectural Review Committee to monitor every planting in Heritage Provence, but if a lawn, at the sole discretion of the architectural control committee, has deteriorated and/or was never installed properly, then the lot owner will be required to bring his lot into compliance with the guidelines.

3. Fences

Fences in Canterbury are intended to be a part of the architectural feel of the neighborhood. White Vinyl Picket style fences shall be required across the front boundary of each lot. Vinyl fencing shall be no taller than 42". All corner lots will have picket fencing along the side of lot that is adjacent to the street placed in a location that will not impair the site of oncoming traffic from driveways or adjacent streets. Fences in the rear yard shall be either

white vinyl picket style or 6' wood privacy fencing that is Shadowbox style with arched top and decorative posts. All wood fence material shall be treated pine or cedar and shall be stained with "Cedar" Stain by Glidden, within 90 days of installation. Fences must be approved by the Architectural Review Committee.

Ambergate Subdivision:

1. Architectural Standards

- (a) All dwellings and permitted accessory buildings constructed on the lots of said subdivision shall have an exterior of at least fifty percent stone or masonry brick construction, with no less than forty percent of the exterior of the sides of the dwellings or buildings consisting stone or masonry brick. Visible unpainted red "sewer brick" will not be allowed.
- (b) All foundations must be brick or stone with no exposed concrete or masonry block.
- (c) While slab foundations are permitted all foundations must be a minimum of 12" above grade with a minimum of one step from the finished floor to ground level in the front of the dwelling.
- (d) All dwellings shall have side or rear entry garages. No front entry garages will be permitted.
- (e) Roofs of dwellings constructed on all of said lots shall be of regular or architectural grade shingles.
- (f) Dwellings constructed on the lots of said subdivision shall have at least two thousand two hundred (2200) square feet of heated area.
- (g) All dwellings shall have a roof pitch of 7/12 or greater on the main roof of the dwelling.
- (h) No two dwellings with the same elevation will be built within 400 feet of each structure facing on the same street.

2. Landscape Requirements

- (a) The front yard of each lot shall be planted with three large trees (i, ii, iii) and three small trees (iv, v), to include no more than one evergreen. Shrubbery required in the

front yard shall be a minimum of twelve shrubs, at least half of which shall be species evergreen in this climate. Shrubs shall be planted in a bed of mulch or ground cover other than turf grass.

(b) The rear yard shall be planted with two large trees (i, ii, iii), and two small trees (iv, v).

(c) All proposed trees shall conform to be the minimum size standard listed below, based on American Standards for Nursery Stock, ANSI Z60.1, published by the American Association of Nurserymen and approved by the American National Standards Institute, as follows:

Suggested Large Trees:

(i) Type 1, Shade trees, 2.5" caliper, 12' height range - Sugar Maple, Red Maple, Tulip Poplar, Sycamore, Red Oak, White Oak, and Willow Oak.

(ii) Type 2, Shade trees, 1.5" caliper, 6' to 8' height range - Weeping Willow, Bradford Pear, Golden Rain Tree, Southern Magnolia, Zelkova, River Birch and European Birch.

(iii) Type 5, Coniferous Evergreens, 5' to 6' height range - Pine species, Hemlock and Spruce.

Suggested Smaller Trees:

(iv) Type 3, Small upright trees, 1" caliper, 6' to 7' height range - Redbud, Crabapple, Crepe Myrtle, Cherry Laurel, and Flowering Plum.

(v) Type 4, Small spreading trees, 5' to 6' height range - Flowering Dogwood, Star Magnolia, Flowering Cherry, and Japanese Maple.

(d) If existing trees meet requirements of this covenant in all respects, required trees of the covenant may be omitted. Each existing tree meeting requirements may count, at the option of the owner, for one of the trees in its required class, provided it:

(i) Is not one of the following species: Box elder, silver maple, catalpa, cottonwood, camphor, mimosa, chinaberry, princess tree, or Siberian elm.

(ii) Has a live crown and is free from serious root, trunk, and crown injury.

(iii) Is indicated on the landscaping plan as a tree "to be saved."

(iv) Is situated so that it can be incorporated into the landscape with minimal grade, cut, or fill under the drip line of the tree.

(e) Ground cover may include shrubs and low-growing plants such as Liriope, English ivy, Periwinkle, and similar material. Ground cover may also include non-living organic material such as bark and pine straw.

(f) All trees greater than six inches in diameter at breast heights shall be preserved, unless removal of them is part of an approved plan.

(g) The lot shall be completely landscaped. However, planned natural areas will be allowed provided that the lawn and the natural area form a cohesive whole.

(h) Driveways shall coordinate with topography and existing vegetation to preserve all trees greater than six inches in diameter at breast height.

(i) Each lot owner must submit a landscaping plan and must completely install such plan within ninety days of occupying the residence. Additionally, each lot owner must maintain his lawn in as good or better condition than his original landscaping plan. It is not the intention of the architectural review committee to monitor every planting in Heritage Provence, but if a lawn, at the sole discretion of the architectural review committee, has deteriorated and/or was never installed properly, then the lot owner will be required to bring his lot into compliance with the guidelines.

3. Fences

Fences shall be wrought iron or 6' wood shadowbox style with arched tops and decorative posts. Fence material shall be treated pine or cedar. All fences shall be stained with "Cedar" by Glidden ICI Dulux, within 90 days of installation. All fences must be approved by the Architectural Review Committee.

ARTICLE VII
Prohibition of Timesharing

Timesharing shall be prohibited in the Community. The term "timesharing" shall include, without limitation, timeshare estate, timeshare use, and timeshare interval programs.

ARTICLE VIII
Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property.

The Board shall obtain a public liability policy applicable to the Common Property insuring the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars or a greater amount if directed by Declarant during time specified in Article X. If available at reasonable cost, as determined in the sole discretion of the Board, the Board shall also obtain directors' and officers' liability insurance.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee, for the respective benefited parties, as further identified in subparagraph (b), below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Alabama and holding a rating of B or better as established by A. M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(d) All insurance policies shall be reviewed annually by one or more qualified persons.

(e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, the Declarant, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

Section 2. Property Insured By Association: Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement

covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least sixty-six (66%) percent of the total Association vote entitled to vote thereon, the Owner(s) of the damaged property, if any, and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof, the Declarant, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however such extension shall not exceed one hundred and twenty (120) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs or repair or

reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event The property shall be restored to its natural state and maintained as an undeveloped portion of the Community in a neat and attractive condition.

Section 3. Property Insured By Owners: Damage and Destruction. By virtue of taking title to property within the Community, each Owner covenants and agrees with all other Owners and with the Association that in the event that the Association does not carry insurance on the Owner's property, each individual Owner shall carry liability and casualty insurance or cause such insurance to be carried by another entity, such as a condominium association or homeowners association. Each individual Owner further covenants and agrees that in the event of a partial loss of damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Residence of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

Section 4. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

**Article IX
Condemnation**

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article VIII, Section 2, above, applicable to Common Property improvements damage or destruction, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

**ARTICLE X
Annexation of Additional Property**

Section 1. Unilateral Annexation by Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time at any time until ten (10) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "C", attached hereto and by reference made a part hereof, and as it may be amended from time to time, to the provisions of this Declaration and the jurisdiction of the Association by filing for record a Supplementary Declaration in respect to the property being annexed. Any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless otherwise provided therein.

The rights reserved unto Declarant to subject additional land to the Declaration shall not and shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association. If such additional land is

not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land or nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 2. Exhibit "C": Real Property Amendment. Subject to the consent of the owner or owners thereof and, so long as the Declarant has the right to subject additional real property as described in Exhibit "C" (as it may be amended from time to time as herein provided) to this Declaration as provided above, with the consent of the Declarant, upon the affirmative vote of at least a majority of the Board of the Association, in person or by proxy, at a meeting duly called for such purpose, the Association may amend Exhibit "C" real property to include such additional real property as may meet the above described requirements by filing for record a Supplementary Declaration with respect to the property being annexed included by amendment to Exhibit "C" Real Property. Any such Supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation amendment shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided therein.

ARTICLE XI

Mortgagee Provisions

The following provisions are for the benefit of holders of first Mortgages on Residences in the Community. The provisions of this Article apply to both this Declaration and the By-Laws notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Residence on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Residence subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Residence of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or at least two-thirds (2/3) of the total Association vote entitled to vote thereon consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);
- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Residence (A decision, including contracts, by the Board or provisions of any Supplementary Declaration regarding

assessments for Parcels or other similar areas shall not be subject to this provision where such decision or Supplementary Declaration is otherwise authorized by this Declaration.);

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residences and of the Common Property (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Residence in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Residence.

Section 5. Amendment by Board. Should the Veterans Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently

delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendments to this Article to be recorded to reflect such changes.

Section 6. Veterans Administration Approval. As long as the Declarant has an option unilaterally to subject property to this Declaration as provided in Article X, the following actions shall require the prior approval of the Veterans Administration so long as the Veterans Administration is guaranteeing any Mortgage in the Community: annexation of additional property to the Community, except for annexation by Declarant in accordance with Article X, Section 1 hereof pursuant to a plan of annexation previously approved by the Veterans Administration; dedication of Common Property to any public entity; and material amendment of the Declaration, By-Laws or Articles of Incorporation.

Section 7. Applicability of Article XI. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Alabama law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee (or insurer or guarantor of a Mortgage) who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE XII

Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Residence and such portion

or portions of the Common Property adjacent thereto or as between adjacent Residences due to the placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Residence and the adjacent portion of the Common Property or as between adjacent Residences, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

Section 2. Easements for Use and Enjoyment of Common Property. Every Member shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his property, subject to the following provisions:

- (a) the right of the Board to charge reasonable admission and other fees for the use of any portion of the Common Property, including, without limitation, swimming pools, to limit the number of guests who may use the Common Property, to allow Persons who are not Members of the Association, such as Persons living or working in the vicinity of the Community, to use the Common Property on a regular or temporary basis and to charge or not charge a user fee therefor, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests, Occupants, and invitees;
- (b) the right of the Board to suspend the voting rights of an Owner and Occupant and the right of an Owner and Occupant to use the Common Property recreational facilities in the Community, if any, for any period during which any assessment which is hereby provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, By-Laws, use restrictions, rules and regulations or design guidelines;
- (c) the right of the Board to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property;

provided, however, the lien and encumbrance of any such Mortgage given shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant, or any Residence or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Residence or other property located within the Community (Any provision in this Declaration or in any such Mortgage given by the Board to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant, or any Residence or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Residence or other property located within the Community.); and

(d) the right of the Board to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least a Majority of the Association, in person or by proxy, at a meeting duly called for such purpose (or, if a meeting is not called, upon the affirmative vote of at least a Majority of the votes cast in a referendum on the issue) and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof, by the Declarant.

An Owner's right of use and enjoyment in and to the Common Property and facilities locate thereon shall extend to the members of his family and guests. Land Owner shall be deemed to have made a delegation of all such rights (except for the right of ingress and egress to the Owner's property) to the Occupants of any leased Residence.

Upon the affirmative vote of the Majority of the Association vote present, in person or by proxy, at a meeting duly called for such purpose (or, if a meeting is not called, upon the affirmative vote of at least a Majority of the votes cast in a referendum on the issue) and, so long as the Declarant has an option unilaterally to subject additional Property to this Declaration as provided in Article X hereof, the consent of Declarant, the Board may alter the use of any Common Property. For example,

and by way of illustration and not limitation, the Board may convert tennis courts into a basketball court or vice versa.

An Owner's right of use and enjoyment in and to the Common Property and facilities located thereon shall not give any Owner the right of ingress or egress across any Residence to obtain access to such Common Property.

Section 3. Reserved Easements for the Provision of Services to the Community. There is hereby reserved to the Declarant, its successors and assigns blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, maintaining, and removing rights-of-way, drainage facilities, floodway easements, and all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, and any other similar service such as, but not limited to, a master television antenna system, cable television system, video system, or security system which the Declarant might decide to have installed to serve the Community or any portion thereof. It shall be expressly permissible for the Declarant and its successors and assigns to install, repair, replace, maintain, and remove or to authorize the installation, repair, replacement, maintenance, or removal of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Declarant and its successors and assigns shall full rights of ingress and egress at all times over all portions of the Community for the installation, operation, maintenance, repair, or removal of any of the foregoing utilities or services and shall have the right to remove any unauthorized obstruction placed in or on any of the foregoing easements that would, in the sole discretion of Declarant or its successors and assigns, interfere with the use of the above installation of the foregoing utilities or services. In no event shall the foregoing prohibit paving or landscaping within

such easements. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder to one or more public utility companies, quasi-public service companies, or relevant governmental authorities. All utilities except drainage installed within the above described easements shall be installed underground. This reserved easement may be assigned by Declarant by written instrument to the Association, and the Association shall accept such assignment upon such terms and conditions as are acceptable to Declarant. Rights exercised pursuant to such reserved easements shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XIII, Section 2, hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security, and safety, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. It is intended that this right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 5. Easement for Lake Maintenance. Declarant and Association hereby expressly reserves a perpetual easement for the benefit of Declarant and its successors and assigns, across such portions of the Community, determined in the sole discretion of Declarant (or its successors and

assigns), as are necessary to allow for the maintenance of a lake(s), lakebed(s) and shoreline(s), if any, which are within the Community or which are made available for the use and enjoyment of Owners and Occupants within the Community. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of property adjacent to the lake(s), reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. In order to allow the exercise of the rights created pursuant to this easement, no tree or structure may be placed within fifteen (15) feet of the line formed by the highest normal pool elevation of any lake without the prior written approval of the Board or its designee.

**ARTICLE XIII
General Provisions**

Section 1. Enforcement. Each Owner and every Occupant shall comply strictly with the By-Laws, the rules and regulations, the use restrictions and with the design guidelines, all as may be amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration, as may be amended from time to time, and in the deed to his or her property within the Community, if any. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-Laws, the rules and regulations, use restrictions, or design guidelines shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board, on behalf of the Association, or, in a proper case, by an aggrieved Owner or Occupant. Failure by the Board or any Owner or Occupant to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, By-Laws, and to assess the cost of

recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

Section 2. Self-Help. In addition to any other remedies provided for herein, the Board or its duly authorized agent shall have the power to enter upon a Residence or any portion of the Community to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the By-Laws, the rules and regulations, the use restrictions, or the design guidelines. Except in the case of emergency situations and towing, the Board shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help. All costs incurred shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Durations. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law; provided, however, should any provision of Alabama law now or hereafter in effect limit the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law; and such provisions shall be automatically extended for successive periods of ten (10) years or such shorter period as may be allowed by law, unless such extension is disapproved at a meeting duly called for such purpose by at least a Majority of the total Association vote (or, if a meeting is not called, upon the affirmative vote of at least a Majority of the Association votes as recorded by a referendum on the issue) and, so long as the Declarant has an option unilaterally to subject additional Property to this Declaration as provided in Article X hereof, the written consent of Declarant. Such meeting or referendum must be held and a written instrument reflecting disapproval must be recorded within the year immediately preceding the

beginning of a renewal period. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Residences subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, without limitation the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, or a State or National Bank, to enable such lender or purchaser to make or purchase Mortgage loans on the Residences subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgage loans on the Residences subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's property unless any such Owner shall consent thereto in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration as provided in Article X hereof, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not adversely affect title to the property of any Owner without the consent of the affected Owner or Occupant.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a two-thirds (2/3) vote of the total

Association vote entitled to vote thereon or three-fourths (3/4) of the Board and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof, the consent of the Declarant. In the event of a conflict between the Board and the Association, the Board's decision controls. A meeting may be called (but shall not be required to be called) to consider and vote upon any amendment. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein.

Any procedural challenge to an amendment must be made within six (6) months of its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of the Declaration or By-Laws.

Section 5. Partition. The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community, the written consent of all holders of all Mortgages encumbering any portion of the property located within the Community, and, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X hereof, the consent of the Declarant.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given

effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Indemnification. The Association shall indemnify every officer and Director against any and all expenses, including attorney's fees, imposed upon or reasonably incurred by any officer or Director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or Director. The officers and Directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and Directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or Directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which

any officer or Director, or former officer or Director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Section 11. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration as provided in Article X terminates, it shall be expressly permissible for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such builder's or developer's development, construction, and sales activities related to property described on Exhibit "B" and Exhibit "C", as it may be amended from time to time, to this Declaration, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Community; the right to tie into any portion of the Community with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to carry on sales and promotional activities in the Community, including directional and sales signs in the common areas; and the right to construct and operate business offices, signs, banners, flags, construction trailers, sales offices, model residences with fences, gates and walkways, and hold open houses and Parades of Homes for the public. Declarant and any such builder or developer may

use Residences or offices owned or leased by Declarant or such builder or developer as model Residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 12. Books and Records. This Declaration, the By-Laws, the Articles of Incorporation, copies of rules and regulations, use restrictions, design guidelines, membership register, , and minutes of meetings of the Members, or the Board and of committees shall be made available for inspection and copying by any Member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of ny first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a Member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

The Board shall establish reasonable rules with respect to:

- (a) notice to be given to the custodian of the records;
- (b) hours and days of the week when such an inspection may be made; and
- (c) payment of the cost of reproducing copies of documents.

Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 13. Audit. An audit of the accounts of the Association may be made annually in such manner as the Board may decide. Upon written request of any institutional holder of a first Mortgage, such holder, upon payment of the costs associated therewith, shall be entitled to receive a copy of a financial statement within ninety (90) days of the date of the request.

Section 14. Notice of Sale. If an Owner sells his or her Residence, the Owner shall give to the Board, in writing, the name of the purchaser of the Residence and such other information as the Board may reasonably require.

Section 15. Estoppel Certificate. Upon the request of any Member, the Board or its designee shall furnish a written certificate signed by an officer or agent of the Association regarding unpaid assessments levied against that Member's property and any violations of the Declaration, By-Laws, use restrictions, rules and regulations, or design guidelines by any Owner or Occupant of such property. Such certificate shall bind the Association with respect to the foregoing matters. The Association may require the advance payment of a processing fee not to exceed Twenty-five (\$25.00) Dollars for the issuance of each such certificate.

Section 16. Agreements. Subject to the prior approval of Declarant, so long as the Declarant has an option unilaterally to subject additional property to this Declaration as provided in Article X above, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and other having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 17. Implied Rights. The Association may exercise any right or privilege given to it expressly by the Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule,

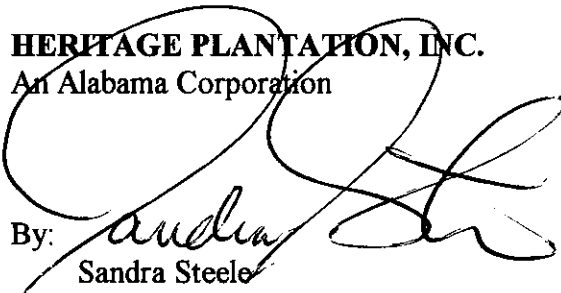
the design guidelines and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 18. Deviations. The Board or its designee or the Declarant so long as the Declarant has an option to subject additional property to the declaration as provided in Article X above, may, in the exercise of its discretion, permit deviations from the restrictions contained in this Declaration, the By-Laws, the rules and regulations, the use restrictions, and the design guidelines.

Section 19. Use of Word "Heritage Provence". No Person shall use the word "Heritage Provence" in the name of any commercial or residential building or any commercial or residential business or enterprise or in any printed or promotional material without the prior written consent of the Declarant. However, Owners or Occupants may use the term "Heritage Provence" in printed or promotional matter where such term is used solely to specify that particular property is located within Heritage Provence.

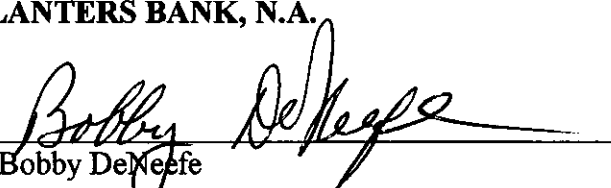
IN WITNESS WHEREOF, the undersigned, Heritage Plantation, Inc., and Union Planters Bank, N.A., have caused this instrument to be executed on this the 25th day of September, 2001.

HERITAGE PLANTATION, INC.
An Alabama Corporation

By: 
Sandra Steele
Its: Vice-President

Ratified By Mortgagee:

UNION PLANTERS BANK, N.A.

By: 
Bobby DeNeefe
Its: Senior Vice President

RLPV 2001 43888

STATE OF ALABAMA
COUNTY OF MADISON

I, the undersigned Notary Public in and for said county and state, hereby certify that Sandra Steele, Vice President of HERITAGE PLANTATION, INC., an Alabama corporation, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 25th day of September, 2001.

[Signature]
Notary Public
My Commission Expires: 2-2-03

STATE OF ALABAMA
COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Bobby DeNeefe, whose name as Senior Vice-President of Union Planters Bank, N.A., is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date in his capacity as such officer and for the act of said corporation.

Given under my hand and official seal this the 25th day of September, 2001.

[Signature]
Notary Public
My Commission Expires: 2-2-03

EXHIBIT "A"

Definitions

The following words, when used in this Declaration or in any Supplementary Declaration (unless the context shall prohibit), shall have the following meanings:

(a) **"Articles of Incorporation"** shall mean the Articles of Incorporation of Heritage Provence Homeowners Association, Inc., as such document may be amended.

(b) **"Association"** shall mean and refer to Heritage Provence Homeowners Association, Inc., a nonprofit, nonstock, membership corporation incorporated under the laws of the State of Alabama, its successors and assigns.

(c) **"Association Expenses"** shall mean and include the actual and estimated expenses of operating the Association, both for general and Parcel purposes, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration, the By-Laws, and the Articles of Incorporation.

(d) **"Ambergate Subdivision"** shall mean Lots 1-33 and Tract C of "HERITAGE PROVENCE PHASE 1," as is recorded in Plat Book G, Pages 88-91, in the Office of the Judge of Probate, Limestone County, Alabama.

(e) **"Board of Directors"** or **"Board"** shall mean the governing body of the Association, and the Board shall have such duties as are provided in the Declaration, the By-Laws, the Articles of Incorporation, and the Alabama Nonprofit Corporation Act.

(f) **"By-Laws"** shall refer to the By-Laws of Heritage Provence Homeowners Association, Inc., as such document may be amended from time to time.

(g) **"Canterbury Subdivision"** shall mean shall mean Lots 34-42, Lots 51-57, Tract D and Tract F of "HERITAGE PROVENCE PHASE 1," as is recorded in Plat Book G, Pages 88-91, in the Office of the Judge of Probate, Limestone County, Alabama.

(h) **"Certificate of Occupancy"** shall mean any required certification issued by the appropriate governmental authorities as a prerequisite to occupancy of any Residence.

(i) **"Common Property"** shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners and Occupants, whether located within or without the boundaries of the Community.

(j) **"Community"** shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto, and (i) such additions thereto of all or any portion of the real property described in Exhibit "C", attached hereto, as may be made by Declarant (or its Mortgagee or transferee, as provided in the Declaration) by Supplementary Declaration; and (ii) such additions thereto of other real property as may be made by the Association by Supplementary Declaration.

(k) **"Community-Wide Standard"** shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association and by committees required or permitted to be established pursuant to the Declaration and By-Laws. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

(l) **"Declarant"** shall mean and refer to Heritage Plantation, Inc., and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "B", attached hereto, or in Exhibit "C", attached hereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "B" attached hereto, and in Exhibit "C", attached hereto, which is now or hereafter subjected to this Declaration, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time.

(m) **"Declaration"** shall mean the Declaration of Protective Covenants for Heritage Provence, as such document may be amended.

(n) **"General Assessments"** shall mean assessments levied for Association Expenses determined by the Board to benefit all Owners and Occupants.

(o) **"Lake Lot Owner"** shall mean the owner of any residence whose rear property line abuts a lake within the community (or a lake made available for the use and enjoyment of owners and occupants within the community) or whose rear property line would abut such lake if the strip of land between such property line and such was owned by the owner of such residence.

(p) **"Majority"** means those eligible votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

(q) **"Member"** shall mean a Person that is a member of the Association as provided in the Declaration.

(r) **"Mortgage"** means any mortgage, deed of trust, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(s) **"Mortgagee"** shall mean the holder of a Mortgage.

(t) **"Occupant"** shall mean any Person occupying all or any portion of a Residence or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

(u) **"Owner"** shall mean the record owner, whether one (1) or more Persons, of the fee simple title to any real property located within the Community, including contract sellers, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation and excluding contract purchasers.

(v) **"Person"** means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

(w) **"Residence"** shall mean a portion of the Community designated on an approved layout plan or subdivision plat, as more particularly described below, for any type of independent use and occupancy as a residence by a single family. For example, each single family detached home shall constitute a Residence; each condominium unit in a condominium development shall constitute a Residence; each Apartment Unit in an Apartment Complex shall constitute a Residence; and each townhome or cluster home unit in an attached or semi-attached housing development shall constitute a Residence. The foregoing examples are set out by way of illustration and not in limitation of the term "Residence." Residence shall include all portions of the land owned as well as any structure thereon, as described above. A Residence shall come into existence on the earliest date of the happening of any of the following events: (1) when a Certificate of Occupancy is issued by the proper governing authority; (2) the expiration of one year from the date a Lot is conveyed to a third party by the Declarant.

(x) **"Supplementary Declaration"** shall mean an amendment to the Declaration subjecting additional property to the Declaration.

(y) **"Somerset Subdivision"** shall mean shall mean a portion of Tract E of "HERITAGE PROVENCE PHASE 1," as is recorded in Plat Book G, Pages 88-91, in the Office of the Judge of Probate, Limestone County, Alabama, as particularly set forth in Exhibit "D," attached hereto.

EXHIBIT "B"

Property Submitted

ALL THAT PART OF SECTION 36 TOWNSHIP 3 SOUTH, RANGE 3 WEST,
LIMESTONE COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCE AT A RAILROAD SPIKE IN THE INTERSECTION OF COUNTY LINE
ROAD AND BROWNS FERRY ROAD, SAID POINT BEING THE SOUTHEAST CORNER
OF SECTION 36, THENCE RUN NORTH 89 DEGREES 56 MINUTES 46 SECONDS
WEST ALONG THE SOUTH BOUNDARY LINE OF SAID SECTION 36, ALSO BEING
THE CENTERLINE OF BROWNS FERRY ROAD, FOR A DISTANCE OF 59.83 FEET
TO A POINT; THENCE RUN NORTH 00 DEGREES 03 MINUTES 14 SECONDS
EAST FOR A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT
OF WAY MARGIN OF BROWNS FERRY ROAD; THENCE RUN NORTH 00°23'08" EAST
ALONG SAID WEST RIGHT-OF-WAY FOR A DISTANCE OF 1248.01 FEET TO THE POINT
OF BEGINNING OF THE PARCEL DESCRIBED HEREIN;

FROM THE POINT-OF-BEGINNING, RUN NORTH 00 DEGREES 23 MINUTES 08
SECONDS EAST ALONG THE WESTERLY RIGHT-OF-WAY MARGIN OF COUNTY
LINE ROAD FOR A DISTANCE OF 1380.73 FEET TO A POINT; THENCE RUN
SOUTH 89 DEGREES 54 MINUTES 30 SECONDS WEST ALONG THE SOUTH
BOUNDARY LINE OF COPPERFIELD FIELD 9TH ADDITION PHASE 2, A PLAT OF
WHICH IS RECORDED IN PLAT BOOK F AT PAGE 169 IN THE PROBATE OFFICE
OF LIMESTONE COUNTY, ALABAMA, FOR A DISTANCE OF 1118.25 FEET TO A POINT;
THENCE RUN SOUTH 01 DEGREES 03 MINUTES 37 SECONDS EAST FOR
A DISTANCE OF 445.17 FEET TO A POINT; THENCE RUN SOUTH 88 DEGREES
56 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 350.00 FEET TO A
POINT; THENCE RUN SOUTH 01 DEGREES 03 MINUTES 37 SECONDS EAST FOR
A DISTANCE OF 335.00 FEET TO A POINT; THENCE RUN SOUTH 18 DEGREES
41 MINUTES 21 SECONDS WEST FOR A DISTANCE OF 907.78 FEET TO A POINT;
THENCE RUN SOUTH 69 DEGREES 33 MINUTES 38 SECONDS WEST FOR A
DISTANCE OF 30.04 FEET TO A POINT; THENCE RUN SOUTH 20 DEGREES 26
MINUTES 22 SECONDS EAST FOR A DISTANCE OF 200.00 FEET TO A POINT;
THENCE RUN NORTH 69 DEGREES 33 MINUTES 38 SECONDS EAST FOR A
DISTANCE OF 31.89 FEET TO A POINT; THENCE RUN SOUTH 20 DEGREES 26
MINUTES 22 SECONDS EAST FOR A DISTANCE OF 150.00 FEET TO A POINT;
THENCE RUN NORTH 69 DEGREES 33 MINUTES 38 SECONDS EAST FOR A
DISTANCE OF 219.39 FEET TO A POINT; THENCE RUN SOUTH 18 DEGREES 30
MINUTES 42 SECONDS EAST FOR A DISTANCE OF 150.27 FEET TO A POINT;
THENCE RUN ALONG A CURVE HAVING A RADIUS OF 325.00 FEET AND AN
ARC LENGTH OF 10.94 FEET (CHORD BEARING SOUTH 70 DEGREES 31
MINUTES 28 SECONDS WEST FOR A CHORD DISTANCE OF 10.93 FEET) TO THE
POINT OF TANGENCY; THENCE RUN SOUTH 69 DEGREES 33 MINUTES 38
SECONDS WEST FOR A DISTANCE OF 15.03 FEET TO A POINT; THENCE RUN
SOUTH 20 DEGREES 26 MINUTES 22 SECONDS EAST FOR A DISTANCE OF
50.00 FEET TO A POINT; THENCE RUN SOUTH 01 DEGREES 03 MINUTES 37
SECOND EAST FOR A DISTANCE OF 530.34 FEET TO A POINT; THENCE RUN
SOUTH 89 DEGREES 56 MINUTES 46 SECONDS EAST ALONG THE NORTHERLY
RIGHT-OF-WAY MARGIN OF BROWNS FERRY ROAD FOR A DISTANCE OF 743.39 FEET
TO A POINT; THENCE RUN NORTH 00 DEGREES 20 MINUTES 07 SECONDS WEST
FOR A DISTANCE OF 1235.98 FEET TO A POINT; THENCE RUN NORTH 88 DEGREES
56 MINUTES 23 SECONDS EAST FOR A DISTANCE OF 619.17 FEET TO A POINT LYING
ON THE EASTERLY RIGHT-OF-WAY MARGIN OF COUNTYLINE ROAD, SAID POINT ALSO
BEING THE POINT-OF-BEGINNING, CONTAINING 69.53 ACRES, MORE OR LESS.

RLPY 2001 43895

ax

ts

en

EXHIBIT "C"

**Additional Property Which Can Be Unilaterally
Submitted By Declarant**

STATE OF ALABAMA
COUNTY OF LIMESTONE

ALL THAT PART OF SECTION 36, TOWNSHIP 3 SOUTH, RANGE 3 WEST,
LIMESTONE COUNTY, ALABAMA AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

BEGINNING AT A RAILROAD SPIKE IN THE INTERSECTION OF COUNTY LINE ROAD
AND BROWN'S FERRY ROAD, SAID POINT BEING THE SOUTHEAST CORNER OF
SECTION 36, THENCE NORTH 89 DEGREES 56 MINUTES 46 SECONDS WEST
ALONG THE SOUTH BOUNDARY OF SAID SECTION 36, ALSO BEING THE CENTERLINE
OF BROWN'S FERRY ROAD, A DISTANCE OF 59.83 FEET TO A POINT; THENCE NORTH
00 DEGREES 03 MINUTES 14 SECONDS EAST 30.00 FEET TO A POINT ON THE
NORTH MARGIN OF BROWN'S FERRY ROAD; THENCE NORTH 89 DEGREES 56 MINUTES
46 SECONDS WEST 1346.82 FEET TO A POINT; THENCE RUN NORTH 01 DEGREES 03
MINUTES 37 SECONDS WEST 530.34 FEET TO A POINT; THENCE RUN NORTH 20 DEGREES
28 MINUTES 22 SECONDS WEST 50.00 FEET TO A POINT; THENCE RUN NORTH 69 DEGREES
33 MINUTES 38 SECONDS EAST 15.03 FEET TO A POINT; THENCE RUN ALONG A CURVE TO
THE RIGHT HAVIN A RADIUS OF 325.00 FEET AND A CHORD BEARING AND DISTANCE OF
NORTH 70 DEGREES 31 MINUTES 28 SECONDS EAST 10.93 FEET TO A POINT; THENCE
RUN NORTH 18 DEGREES 30 MINUTES 42 SECONDS WEST 150.27 FEET TO THE POINT OF
BEGINNING OF THE PORTION OF TRACT 'E' (AS RECORDED ON THE PLAT OF 'HERITAGE
PROVENCE PHASE 1' P.B. 'G', PG 88, LIMESTONE COUNTY COURTHOUSE).

THENCE FROM THE SAID POINT OF BEGINNING, RUN SOUTH 69 DEGREES 33 MINUTES 38
SECONDS WEST 219.39 FEET TO A POINT; THENCE RUN NORTH 20 DEGREES 26 MINUTES
22 SECONDS WEST 150.00 FEET TO A POINT; THENCE RUN SOUTH 69 DEGREES 33 MINUTES
38 SECONDS WEST 42.22 FEET TO A POINT; THENCE RUN NORTH 20 DEGREES 26 MINUTES
22 WEST 200.00 FEET TO A POINT; THENCE RUN NORTH 69 DEGREES 33 MINUTES 38 SECONDS
EAST 310.32 FEET TO A POINT; THENCE RUN NORTH 40 DEGREES 38 MINUTES 31 SECONDS
EAST 144.12 FEET TO A POINT; THENCE RUN SOUTH 82 DEGREES 59 MINUTES 23 SECONDS
EAST 152.17 FEET TO A POINT; THENCE RUN NORTH 02 DEGREES 27 MINUTES 41 SECONDS
WEST 59.97 FEET TO A POINT; THENCE RUN NORTH 88 DEGREES 56 MINUTES 23 SECONDS
EAST 231.88 FEET TO A POINT; THENCE RUN SOUTH 01 DEGREE 03 MINUTES 37 SECONDS
EAST 109.45 FEET TO A POINT; THENCE RUN SOUTH 27 DEGREES 43 MINUTES 52 SECONDS
WEST 336.84 FEET TO A POINT; THENCE RUN SOUTH 69 DEGREES 33 MINUTES 38 SECONDS
WEST 258.33 FEET TO THE POINT OF BEGINNING, CONTAINING 5.78 ACRES, MORE OR LESS.

RLPV 2001 43897

EXHIBIT "D"

Legal Description for Somerset

ALL THAT PART OF SECTION 36 TOWNSHIP 3 SOUTH, RANGE 3 WEST, LIMESTONE COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A RAILROAD SPIKE IN THE INTERSECTION OF COUNTY LINE ROAD AND BROWNS FERRY ROAD, SAID POINT BEING THE SOUTHEAST CORNER OF SECTION 36, THENCE RUN NORTH 89 DEGREES 56 MINUTES 46 SECONDS WEST ALONG THE SOUTH BOUNDARY LINE OF SAID SECTION 36, ALSO BEING THE CENTERLINE OF BROWNS FERRY ROAD, FOR A DISTANCE OF 59.83 FEET TO A POINT; THENCE RUN NORTH 00 DEGREES 03 MINUTES 14 SECONDS EAST FOR A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTH RIGHT OF WAY MARGIN OF BROWNS FERRY ROAD; THENCE RUN NORTH 89 DEGREES 56 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 1346.82 FEET TO A POINT LYING ON SAID NORTH RIGHT-OF-WAY MARGIN, SAID POINT ALSO BEING THE POINT-OF-BEGINNING;

THENCE CONTINUE NORTH 89 DEGREES 56 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 1628.34 FEET TO A POINT, SAID POINT LOCATED AT THE NORTHEAST QUADRANT OF THE INTERSECTION OF BROWNS FERRY ROAD AND BURGREN ROAD; THENCE RUN NORTH 00 DEGREES 35 MINUTES 30 SECONDS WEST ALONG THE EAST RIGHT-OF-WAY MARGIN OF BURGREN ROAD FOR A DISTANCE OF 2201.19 FEET TO A POINT; THENCE RUN NORTH 89 DEGREES 54 MINUTES 30 SECONDS EAST FOR A DISTANCE OF 210.00 FEET TO A POINT; THENCE RUN NORTH 00 DEGREES 35 MINUTES 30 SECONDS WEST FOR A DISTANCE OF 420.00 FEET TO A POINT LYING ON THE NORTH BOUNDARY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 36, SAID POINT LYING ON THE SOUTH BOUNDARY OF COPPERFIELD SUBDIVISION NINTH ADDITION PHASE I, A PLAT OF WHICH IS RECORDED IN PLAT BOOK F AT PAGE 160 IN THE PROBATE OFFICE OF LIMESTONE COUNTY, ALABAMA; THENCE RUN NORTH 89 DEGREES 54 MINUTES 30 SECONDS EAST ALONG SAID NORTH BOUNDARY LINE OF SOUTHEAST QUARTER FOR A DISTANCE OF 1691.67 FEET TO A POINT; THENCE RUN SOUTH 01 DEGREES 03 MINUTES 37 SECONDS EAST FOR A DISTANCE OF 445.17 FEET TO A POINT; THENCE RUN SOUTH 88 DEGREES 56 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 350.00 FEET TO A POINT; THENCE RUN SOUTH 01 DEGREES 03 MINUTES 37 SECONDS EAST FOR A DISTANCE OF 335.00 FEET TO A POINT; THENCE RUN SOUTH 18 DEGREES 41 MINUTES 21 SECONDS WEST FOR A DISTANCE OF 907.78 FEET TO A POINT; THENCE RUN SOUTH 69 DEGREES 33 MINUTES 38 SECONDS WEST FOR A DISTANCE OF 30.04 FEET TO A POINT; THENCE RUN SOUTH 20 DEGREES 26 MINUTES 22 SECONDS EAST FOR A DISTANCE OF 200.00 FEET TO A POINT; THENCE RUN NORTH 69 DEGREES 33 MINUTES 38 SECONDS EAST FOR A DISTANCE OF 31.89 FEET TO A POINT; THENCE RUN SOUTH 20 DEGREES 26 MINUTES 22 SECONDS EAST FOR A DISTANCE OF 150.00 FEET TO A POINT; THENCE RUN NORTH 69 DEGREES 33 MINUTES 38 SECONDS EAST FOR A DISTANCE OF 219.39 FEET TO A POINT; THENCE RUN SOUTH 18 DEGREES 30 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 150.27 FEET TO A POINT; THENCE RUN ALONG A CURVE HAVING A RADIUS OF 325.00 FEET AND AN ARC LENGTH OF 10.94 FEET (CHORD BEARING SOUTH 70 DEGREES 31 MINUTES 28 SECONDS WEST FOR A CHORD DISTANCE OF 10.93 FEET) TO THE POINT OF TANGENCY; THENCE RUN SOUTH 69 DEGREES 33 MINUTES 38 SECONDS WEST FOR A DISTANCE OF 15.03 FEET TO A POINT; THENCE RUN SOUTH 20 DEGREES 26 MINUTES 22 SECONDS EAST FOR A DISTANCE OF 50.00 FEET TO A POINT; THENCE RUN SOUTH 01 DEGREES 03 MINUTES 37 SECONDS EAST FOR A DISTANCE OF 530.34 FEET TO THE POINT OF BEGINNING, CONTAINING 91.64 ACRES, MORE OR LESS.

ALPV 2001 43899

Recording Fee 217.00, TOTAL 217.00

AMENDMENT TO THE DECLARATION
OF PROTECTIVE COVENANTS AND SUPPLEMENTAL DECLARATION
FOR HERITAGE PROVENCE SUBDIVISION
PHASE 8
(AMBERGATE FIFTH ADDITION)

WHEREAS, heretofore on the 25th day of September, 2001, the undersigned, Heritage Plantation, Inc., an Alabama corporation, as Declarant, did promulgate and file for record Declaration of Protective Covenants for Heritage Provence, a residential subdivision, which said Declaration of Protective Covenants is recorded in Book 2001, Page 43828, in the Office of the Judge of Probate of Limestone County, Alabama;

WHEREAS, Article X, Section 1, of said Declaration of Protective Covenants of Heritage Plantation provides that the Declarant may subject additional parcels of real property described in Exhibit "C," of said declaration and may promulgate amendments to the restrictive covenants as provided in Article XIII, Section 4, by filing of such supplemental declarations in the Office of the Judge of Probate of Limestone County, Alabama.

NOW THEREFORE, pursuant to the provisions of said Article X, Section 1, and Article XIII, Section 4, of the Declaration of Protective Covenants of Heritage Provence, the undersigned, Heritage Plantation, Inc., as Declarant, and Union Planters Bank, N.A., as Mortgagee, do by these presents amend said declaration in the following manner:

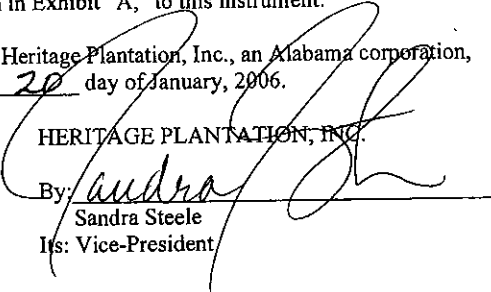
1. All of the additional properties described in attached exhibit "A," which is incorporated herein by reference, is subject to the restrictions set forth in the Declaration of Protective Covenants as recorded in Book 2001, Page 43828, in the Office of the Judge of Probate of Limestone County, Alabama, as may be amended from time to time.

2. Said Declaration is further modified as follows:

- a. The property described in attached exhibit "A," is hereby subjected to the specific subdivision restrictions for "Ambergate Subdivision," as set out in pages 33-35 of the Declaration; and
- b. The definition of "Ambergate Subdivision" in (d) of Exhibit "A" to the Declaration is amended to include the Lots set forth in Exhibit "A," to this instrument.

IN WITNESS WHEREOF, the undersigned, Heritage Plantation, Inc., an Alabama corporation, has caused this instrument to be executed on this the 20 day of January, 2006.


HERITAGE PLANTATION, INC.

By: 
Sandra Steele
Its: Vice-President

STATE OF ALABAMA
COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Sandra Steele, whose name as Vice-President of Heritage Plantation, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, she as such officer and with full authority executed the same voluntarily on the day the same bears date in her capacity as such officer and for the act of said corporation.

This the 20 day of January, 2006.


Notary Public

My Commission Expires: 12/18/07

This Instrument Prepared By: Samuel H. Givhan, Wilmer & Lee, P.A., 100 Washington Street,
Huntsville, Alabama 35801

912
11/27/02

STATE OF ALABAMA

LIMESTONE COUNTY

AMENDMENT TO THE DECLARATION
OF PROTECTIVE COVENANTS AND SUPPLEMENTAL DECLARATION
FOR HERITAGE PROVENCE SUBDIVISION
(CANTERBURY SUBDIVISION)

WHEREAS, heretofore on the 25th day of September, 2001, the undersigned, Heritage Plantation, Inc., an Alabama corporation, as Declarant, did promulgate and file for record Declaration of Protective Covenants for Heritage Provence, a residential subdivision, which said Declaration of Protective Covenants is recorded in Book 2001, Page 43828, in the Office of the Judge of Probate of Limestone County, Alabama;

WHEREAS, Article XIII, Section 1, of said Declaration of Protective Covenants of Heritage Plantation provides that the Declarant may promulgate amendments to the restrictive covenants as provided in Article XIII, Section 4, by filing of such supplemental declarations in the Office of the Judge of Probate of Limestone County.

NOW THEREFORE, pursuant to the provisions of said Article XIII, Section 4, of the Declaration of Protective Covenants of Heritage Provence, the undersigned, Heritage Plantation, Inc., as Declarant, along with Ken McDaniel Homes, Inc., Griffith & Associates, Inc., Quality Concepts, Inc., Smith & Patterson Construction, Inc., and Union Planters Bank, N.A., being all the owners within Canterbury Subdivision, which are the only owners affected by this amendment, do by these presents amend said declaration, as previously supplemented, in the following manner:

1. Article VI, Section 37 of the Declaration is modified in part hereby. However the only portion of said Section 37 that is being altered is Paragraph 3 regarding fences for Canterbury Subdivision as set out in pages 32 and 33 of the Declaration. This portion is modified to read as follows:

Fences.

Fences in Canterbury are intended to be a part of the architectural feel of the neighborhood. Wrought iron style fences shall be required across the front boundary of each lot. Wrought iron fencing shall be no taller than 42". All corner lots will have fencing along the side of lot that is adjacent to the street placed in a location that will not impair the site of oncoming traffic from driveways or adjacent streets. Fences in the rear yard shall be either wrought iron style or 6' wood privacy fencing that is Shadowbox style with arched top and decorative posts. All wood fence material shall be treated pine or cedar and shall be stained with "Cedar" Stain by Glidden, within 90 days of installation. Fences must be approved by the Architectural Review Committee.

Except as modified above, the Declaration, remains in full force and effect and is hereby affirmed and ratified.

IN WITNESS WHEREOF, the undersigned, Heritage Plantation, Inc., an Alabama corporation, Smith & Patterson Construction, Inc., Ken McDaniel Homes, Inc., Quality Concepts, Inc., Griffith & Associates, Inc., and Union Planters Bank, N.A., have caused this instrument to be executed on this the 15th day of November, 2002.

Union Planters Bank, N.A.

By: [Signature]
Its: Comrr. Bank President

HERITAGE PLANTATION, INC.
By: [Signature]
Sandra Steele
Its: Vice-President

Smith & Patterson Construction, Inc.

By: [Signature]
Its: Secretary

Ken McDaniel Homes, Inc.

By: [Signature]
Its: President

Griffith & Associates, Inc.

By: [Signature]
Its: PRESIDENT

RLPV 2002 64677

Quality Concepts, Inc.

By: [Signature]
Its: [Signature]

STATE OF ALABAMA

COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Sandra Steele, whose name as Vice-President of Heritage Plantation, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, she as such officer and with full authority executed the same voluntarily on the day the same bears date in her capacity as such officer and for the act of said corporation.

This the 15th day of November, 2002.

[Signature]
Notary Public
My Commission Expires: 8/25/04

STATE OF ALABAMA

COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Ken McDaniel, whose name as President of Ken McDaniel Homes, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date in his capacity as such officer and for the act of said corporation.

This the 15th day of November, 2002.

[Signature]
Notary Public
My Commission Expires: 8/25/04

STATE OF ALABAMA

COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Andy Griffith, whose name as President of Griffith & Associates, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date in his capacity as such officer and for the act of said corporation.

This the 15th day of November, 2002.

[Signature]
Notary Public
My Commission Expires: 8/25/04

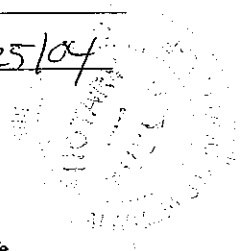
STATE OF ALABAMA

COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Doug Schramm, ^{ops} whose name as President of Quality Concepts, Inc., is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date in his capacity as such officer and for the act of said corporation.

This the 15th day of November, 2002.

Doug Schramm
Notary Public
My Commission Expires: 8/25/04



STATE OF ALABAMA

COUNTY OF MADISON

~~Before me, the undersigned authority, this day personally appeared Eric Odden and wife, _____, whose names are signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.~~

~~This the _____ day of _____, 2002.~~

~~Notary Public
My Commission Expires: _____~~

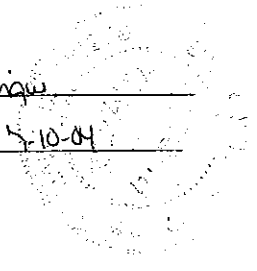
STATE OF ALABAMA

COUNTY OF MADISON

Before me, the undersigned authority, this day personally appeared Robert F. Howell, whose name as Comm. Bank Pres. of Union Planters Bank, N.A., is signed to the foregoing instrument and who is known to me, acknowledged before me that, on being informed of the contents of said instrument, he as such officer and with full authority executed the same voluntarily on the day the same bears date in his capacity as such officer and for the act of said banking institution.

This the 15th day of November, 2002.

Mary B. Dunigan
Notary Public
My Commission Expires: 5-10-04



This Instrument Prepared By:
Samuel H. Givhan
Watson, Jimmerson, Givhan, Martin & McKinney, P.C.
203 Greene Street
Huntsville, Alabama 35801



July 21, 2014

Subject: Designated Parking Area Change to the Heritage Provence Homeowner's Association Declaration of Protective Covenants – Covenant 2014-002

This change in covenants is applicable to Article VI Use Restrictions and Rules, Section 4 Vehicles and Garages.

The second sentence of the fifth paragraph that states, "No vehicle, other than an Owner's standard means of transportation, e.g. car, truck, SUV, or van should be in view from the street (they should either be in the garage or in the rear yard behind a fence)" is deleted.

The fifth paragraph is then modified to read as follows:

"All single family detached residences shall contain, as a minimum, a two car garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage. An owner with more vehicles than parking spaces in a garage may park the extra vehicles (or the vehicles of guests, children, domestic employees, etc.) in their driveway. No parking whatsoever is permitted in the front yard. Owners may request approval of driveway extensions forward of their fence lines to provide for additional parking spaces for vehicles in the driveway that may not fit within the garage space or to provide for parking spaces without blocking ingress or egress through the garage doors when additional parking is required."

Rationale for the Changes: The deleted sentence contradicts other portions of Article VI, Section 4 in that no vehicles are permitted to be parked behind the fence. ARC has allowed owners to extend driveways forward of fences to increase parking spaces as allowed by the Covenants. Nearly all homes in the community that have two car garages have allowances to extend driveways forward of the fence line without need for parking areas behind the fences.

The Heritage Provence HOA BOD meeting minutes for 11 January 2011 document the approval of this covenant change that became effective the same day. The change was also documented in the February 2011 Newsletter to the residents.

The Heritage Provence HOA BOD has reviewed and validated this change as current on 21 July 2014.

Regards,

A handwritten signature in black ink, appearing to read "Jim Daniel", is written over a large, stylized, light-colored graphic element that resembles a signature or a decorative flourish.

Jim Daniel
President, HPHOA BOD



December 18, 2018

Subject: Addendum for Clarification Concerning Ambergate Mailboxes to the Heritage Provence Homeowner's Association Declaration of Protective Covenants – Covenant Memorandum 2018-001

This addendum in covenants is applicable to Article VI Use Restrictions and Rules, Section 31 Mailboxes.

The Ambergate section has the largest mailbox placards with the placards including both the number and street name of the address visible (see Figure 1). The placards will measure 14 inches wide by 4 inches tall and are cut from 1/8" plate. The numbering shall be 1.75 inches in height. The lettering shall be approximately 1.25 inches in height. Limited adjustment of the size of the lettering to a smaller size letter is permitted to fit the street name onto the placard. Capital letters will not exceed 1.25 inches in height. The street address must be readable from both sides of the placard. The lettering, to include numbers, shall be Times or Times New Roman font and not bolded. The color shall be white and consist of a material that is UV resistant and not reflective.

The Mailbox, post, and placard shall be free of visible rust and painted black with a satin finish.

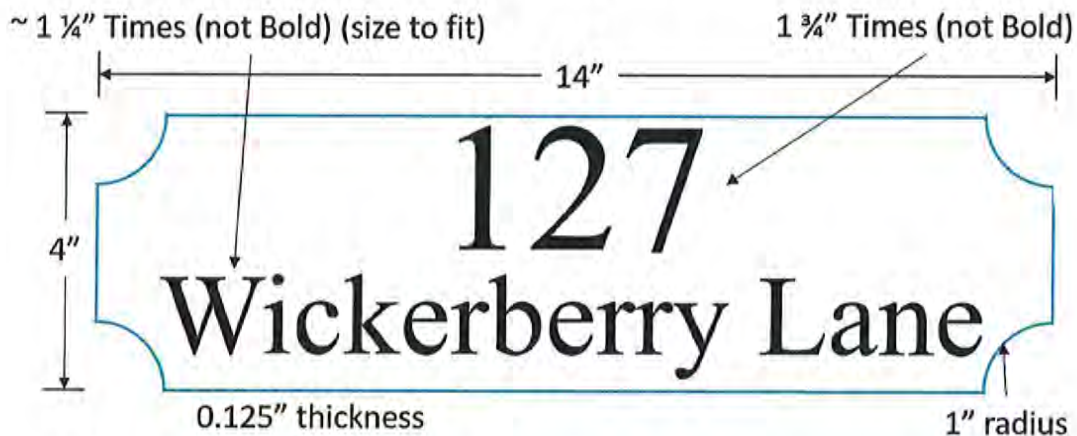


Figure 1. Ambergate Mailbox Placards

Repairs or replacement of any component of the mailbox is the responsibility of the owner. If the owner desires to have a contractor service the mailbox, New Market Iron Works (256-746-3999) has conducted acceptable repair work within Ambergate. Lettering can be purchased from Terrie Regensburger (407-617-8114) or stores like Signarama.

Rationale for the Changes: Heritage Provence is a mature neighborhood and many of the mailboxes within Ambergate are in need of maintenance. But the original provider of the mailboxes is no longer in business. Due to this, many residents have, with good intentions, replaced the placards and lettering with a variety of fonts and placard dimensions. This policy establishes a uniform standard for all of the mailboxes within Ambergate.

The Heritage Provence HOA BOD meeting minutes for 17 December 2018 document the approval of this covenant change that became effective the same day. The minutes of the meeting also reflect the Board's agreement of a grace period until 01 September 2019 for residents to bring their mailboxes into compliance with this policy.

The Heritage Provence HOA BOD has reviewed and validated this change as current on 18 December 2018.

Regards,


Dee Lauderdale
President, HPHOA BOD