

Breckenridge

ARTICLES OF INCORPORATION
OF
BRECKENRIDGE OWNERS ASSOCIATION, INC.
AN ALABAMA NON-PROFIT CORPORATION

1278. 765
Recorded in the Above
CORP Book & Page
03-17-2006 02:50:02 PM
Finalist - Probate Judge
Lee County, AL

ARTICLE ONE
NAME

The name of the corporation is "Breckenridge Owners Association, Inc."

ARTICLE TWO
DURATION

The term of the existence of the corporation is perpetual.

ARTICLE THREE
PURPOSE

The objectives of the Breckenridge Owners Association, Inc., are to preserve the architectural and aesthetic appearance and the natural setting and beauty of a real estate development known as "Breckenridge Subdivision" located in Auburn, Lee County, Alabama (hereinafter "Development"); to establish and preserve a harmonious design for the Development and to protect and promote the value of the Property, the Lots, the Dwellings, and all improvements thereon within the Development.

ARTICLE FOUR
REGISTERED AGENT AND OFFICE

Pursuant to Code of Alabama Section 10-3A-23, the initial Registered Office of the Breckenridge Owners Association, Inc., shall be 2474 Gunston Court, Auburn, Alabama 368320 and the initial Registered Agent shall be Mr. W. Thomas Johnson, 2474 Gunston Court, Auburn, Alabama 36832.

Page -1-

Book/Pa: 1278/765
Term/Cashier: SCANS / ss3
Tran: 71.1389.1869
Recorded: 03-17-2006 14:52:45
REC Recording Fee
Total Fees: \$ 30.00

30.00

Breckenridge

ARTICLE FIVE
POWERS

The corporation shall enjoy those powers enumerated in Code of Alabama, 1975, Title 10, Section 3A-20 et. seq. and any subsequent additional powers conferred by state statute and/or judicial interpretation of non-profit corporate powers.

ARTICLE SIX
BOARD OF DIRECTORS

The Corporation shall act through a Board of Directors. There shall initially be four board members who shall be appointed or elected in the manner set forth in the Bylaws of the Corporation. The number of directors and their manner of selection shall be as set forth in the Bylaws and shall be changed only in accordance with the Bylaws.

ARTICLE SEVEN
INITIAL INCORPORATOR

The names and addresses of the initial incorporator is as follows:

1. W. Thomas Johnson 2474 Gunston Court
Auburn, Alabama 36832

ARTICLE EIGHT
INITIAL MEMBERS OF THE BOARD OF DIRECTORS

The names and addresses of the initial members of the Board of Directors are:

1. W. Thomas Johnson 2474 Gunston Court
Auburn, Alabama 36832
2. Taci G. Johnson 2474 Gunston Court
Auburn, Alabama 35832
3. Verdean V. Spratlin 2487 Gunston Court
Auburn, Alabama 36832
4. Joyce Spratlin 2487 Gunston Court
Auburn, Alabama 36832

ARTICLE NINE
INCOME

1278 767

Recorded in the Above

CORP Book & Page

03-17-2006 02:50:02 PM

Bill English - Probate Judge
Lee County, AL

No part of the income of the Corporation shall inure to the benefit of any member of the Breckenridge Owners Association, Inc., or to any director or officer and no such person shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the Corporation. Upon dissolution of the Corporation and after payment of all debts and obligations of the Corporation, any remaining assets shall be used or distributed exclusively for purpose within the meaning of Section 501(c)3 of the Internal Revenue Code, U.S., as the same now exists or as it may hereafter be amended.

ARTICLE TEN
FISCAL YEAR

The Corporation shall operate on a fiscal year the same as a calendar year, January to December.

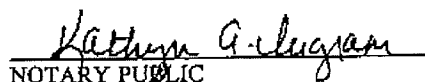
IN WITNESS WHEREOF, I have subscribed my hand and seal this 17th day of March, 2006.


W. Thomas Johnson

STATE OF ALABAMA)
)
COUNTY OF LEE)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that W. Thomas Johnson, whose name is signed to the foregoing Articles of Incorporation of Breckenridge Owners Association, Inc., an Alabama Non-Profit Corporation, and who is known to me, acknowledged before me on this day that being informed of the contents of said Articles of Incorporation, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this the 17 day of March, 2006


NOTARY PUBLIC
My Commission Expires: 07/28/07

**BYLAWS
OF
BRECKENRIDGE OWNERS ASSOCIATION, INC.
AN ALABAMA NON-PROFIT CORPORATION**

1278 768
Recorded in the Above
CORP Book & Page
07-07-2006 02:56:41 PM
Still English - Probate Judge
Lee County, AL

**ARTICLE ONE
MEMBERS**

SECTION 1.01 - MEMBERS. The members of the Association shall consist of the Owners of the Lots in Breckenridge Subdivision, including Builder for so long as any Lot shall remain unsold.

SECTION 1.02 - CHANGE OF MEMBERSHIP. Change of membership in the Association shall be established by the delivery to the Association of a certified copy of a deed or other instrument filed in the public records of Lee County, Alabama establishing record title to the Lot in the new member. The Lot Owner(s) designated by such instrument shall thereby become a member of the Association and the membership of the prior Owner shall be thereby terminated.

**ARTICLE TWO
MEETING OF ASSOCIATION MEMBERS**

SECTION 2.01 - ANNUAL MEETING. The Association shall hold an annual meeting to elect directors and transact other business as may properly come before the meeting. The annual meeting shall be held within eight weeks of the close of the fiscal year of the Association and notice of the meeting stating the date, time and location of the meeting, along with a proposed annual budget, shall be delivered to the Association Members at the address on file with the association, and the date for the annual meeting shall be not less than fourteen (14) days nor more than thirty (30) days after delivery of the notice of the meeting and annual budget.

SECTION 2.02 - SPECIAL MEETINGS. Special meetings of the Association Members may be called at any time by the Board of Directors or by the President of the Association, and shall be called by the President or the Secretary at the written request of at least two Association Members then entitled to vote, or as otherwise required under the provisions of the laws of the State of Alabama. In the event that the Board of Directors shall call a special meeting of the members, then notice of the meeting, stating the date, time and location of the meeting shall be delivered to each member at the address on file with the Association. The date of the Special Meeting shall not be less than fourteen (14) days nor more than thirty (30) days after delivery of the notice of the meeting.

SECTION 2.03 - PLACE OF MEETING. Annual or Special Meetings of the Association membership shall be held at such place in the United States as is set from time to time by the Board of Directors.

SECTION 2.04 - NOTICE OF MEETING. Notice of any meeting, annual or special, need not be given to any persons who may become an association member of record after the mailing of such notice and prior to the meeting, or to any association member who attends such meeting, in person or by proxy, or to any association member who, in person or by proxy, submits a signed waiver of notice either before or after such meeting. Notice of any adjourned meeting of association members need not be given, unless otherwise required by statute.

SECTION 2.05 - QUORUM AND VOTING. As established in the Articles of Incorporation, the Breckenridge Owners Association, Inc., shall act through a Board of Directors, and therefore, the only issue to be submitted to the members for a vote shall be the election of Directors. There shall be no specified number or percentage of members required to constitute a quorum at the annual meeting or at a special meeting.

SECTION 2.06 - GENERAL RIGHT TO VOTE. Any member of record may vote either in person or by written proxy signed by the member and notarized. For this purpose a proxy shall not be valid more than sixty (60) days after its date.

At all meetings in which members have a right to vote, the Secretary of the corporation shall be responsible for providing a current list of members eligible to vote and shall so advise the President or other official charged with conducting the vote.

ARTICLE THREE **BOARD OF DIRECTORS**

SECTION 3.01 - FUNCTION OF DIRECTORS. The business and affairs of the Corporation shall be managed by the Board of Directors. All powers of the Corporation shall be exercised by or under authority of the Board of Directors.

SECTION 3.02 - NUMBER OF DIRECTORS. The Corporation shall have Three (3) directors. The Board of Directors may increase the number of directors to a number not exceeding seven (7) and may decrease the number of directors to a number which is not less than one (1); provided that the action of the Board of Directors in changing the number of Directors may not affect the tenure of office of any director.

SECTION 3.03 - ELECTION AND TENURE OF DIRECTORS. The initial Board of Directors established in the Articles of Incorporation shall serve until Builder no longer owns any Lots, or until such Directors resign. Beginning with the first annual meeting thereafter, the directors shall be elected at the annual meeting by a plurality vote. At each election for directors every member entitled to vote at such election shall have the right to vote once for each directorship. The directors shall hold office for a term of one year and until their successors have been elected and qualified.

If the office of any Director becomes vacant otherwise than by expiration of the one year term, the remaining directors by majority agreement may elect a successor who shall hold office until the next annual meeting or until his successor is elected and qualified.

SECTION 3.04 - MEETINGS. The Board of Directors shall meet at least once annually at a place, time, and date chosen by a majority vote of the Board of Directors and at such other times and places as the majority of the Board of Directors deems necessary.

SECTION 3.05 - NOTICE OF MEETING. The Secretary shall give notice to each director of each meeting of the Board of Directors. The notice shall state the date, time and place of the meeting. Notice is given to a director when it is delivered personally to him, left at his residence or usual place of business, or sent by telegraph or telephone, at least 24 hours before the time of the meeting or, in the alternative by mail to his address as it shall appear on the records of the Corporation, at least 72 hours before the time of the meeting. Unless the By-laws or a resolution of the Board of Directors provides otherwise, the notice need not state the business to be transacted at or the purposes of any meeting of the Board of Directors. No notice of any meeting of the Board of Directors need be given to any director who attends, or to any director who, in writing executed and filed with the records of the meeting either before or after the holding thereof, waives such notice. Any meeting of the Board of Directors may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

SECTION 3.06 - ACTION BY DIRECTORS. Unless a statute or the Articles of Incorporation or Bylaw requires a greater proportion, the action of a majority of the directors present at a meeting at which a quorum is present is action of the Board of Directors. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business. In the absence of a quorum, the directors present by majority vote and without notice other than by announcement may adjourn the meeting from time to time until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting, if an unanimous written consent which sets forth the action is signed by each member of the Board and filed with the minutes of proceedings of the Board.

SECTION 3.07 - MEETING BY CONFERENCE TELEPHONE. Members of the Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means constitutes presence in person at a meeting.

SECTION 3.08 - COMPENSATION. By resolution of the Board of Directors a fixed sum and expenses, if any, for attendance at each meeting of the Board of Directors or of committee thereof, and other compensation for their services as such or on committees of the Board of Directors, may be paid to directors. A director who serves the Corporation in any other capacity also may receive compensation for such other services, pursuant to a resolution of the directors.

ARTICLE FOUR
OFFICERS

SECTION 4.01 - EXECUTIVE AND OTHER OFFICERS. The Corporation shall have a President, Treasurer, and Secretary who shall be the executive officers of the Corporation. It may also have a Chairman of the Board; the Chairman of the Board shall be an executive officer if he is designated as the chief executive officer of the Corporation. The Board of Directors may designate who shall serve as chief executive officer, having general supervision of the business and affairs of the Corporation, or as chief operating officer, having supervision of the operations of the Corporation; in the absence of designation the President shall serve as chief executive officer and chief operating officer. It may also have one or more Vice-Presidents, assistant officers, and subordinate officers as may be established by the Board of Directors. A person may hold more than one office in the Corporation but may not serve concurrently as both President and Vice-President of the Corporation. The Chairman of the Board shall be a director; the other officers may be directors.

SECTION 4.02 - CHAIRMAN OF THE BOARD. The Chairman of the Board, if one be elected, shall preside at all meetings of the Board of Directors at which he shall be present; and, in general, he shall perform all such duties as are from time to time assigned to him by the Board of Directors.

SECTION 4.03 - PRESIDENT. The President, in the absence of the Chairman of the Board, shall preside at all meetings of the Board of Directors-at which he shall be present; he may sign and execute, in the name of the Corporation, all authorized deeds, mortgages, bonds, contracts or other instruments, except in cases in which the signing and execution thereof shall have been expressly delegated to some other office or agent of the Corporation; and, in general, he shall perform all duties usually performed by a president of a corporation and such other duties as are from time to time assigned to him by the Board of Directors or the chief executive officer of the Corporation or by these By-laws.

SECTION 4.04 - SECRETARY. The Secretary shall keep the minutes of the Board of Directors and of any committee reports, in books provided for that purpose; he shall see that all notices are duly given in accordance with the provisions of the By-laws or as required by law; he shall be custodian of the records of the Corporation; he may witness any document on behalf of the Corporation, the execution of which is duly authorized, see that the corporate seal is affixed where such document is required or desired to be under its seal, and, when so affixed, may attest the same; in general, he shall perform all duties incident to the office of a secretary of a corporation, and such other duties as are from time to time assigned to him by the Board of Directors, the chief executive officer, or the President.

SECTION 4.05 - TREASURER. The Treasurer shall have charge of and be responsible for all funds, securities, receipts and disbursements of the Corporation, and shall deposit, or cause to be deposited, in the name of the Corporation, all moneys or other valuable effects in such banks, trust companies or other depositories as shall, from time to time, be selected by the Board of Directors; he shall render to the President and to the Board of Directors, whenever requested, an account of the financial condition of the Corporation; and, in general, he shall perform all the duties incident to the office of a treasurer of a corporation, and such other duties as are from time to time assigned to him by the Board of Directors, the chief executive officer, or the President.

SECTION 4.06 - ASSISTANT AND SUBORDINATE OFFICERS. The assistant and subordinate officers of the Corporation are all officers below the office of Vice-President, Secretary, or Treasurer. The assistant or subordinate officers shall have such duties as are from time to time assigned to them by the Board of Directors, the chief executive officer, or the President.

SECTION 4.07 - ELECTION, TENURE AND REMOVAL OF OFFICERS. The Board of Directors shall elect the officers. The Board of Directors may from time to time authorize any committee or officer to appoint assistant and subordinate officers. All officers shall be appointed to hold their offices, respectively, during the pleasure of the Board. The Board of Directors (or, as to any assistant or subordinate officer, any committee or officer authorized by the Board) may remove an officer at any time. The removal of an officer does not prejudice any of his contract rights. The Board of Directors (or, as to any assistant or subordinate officer, any committee or officer authorized by the Board) may fill a vacancy which occurs in any office for the unexpired portion of the term.

SECTION 4.09 - COMPENSATION. The Board of Directors shall have power to fix the salaries and other compensation and remuneration, of whatever kind, of all officers of the Corporation. It may authorize any committee or officer, upon whom the power of appointing assistant and subordinate officers may have been conferred, to fix the salaries, compensation and remuneration of such assistant and subordinate officers.

ARTICLE FIVE

SUNDRY PROVISIONS

SECTION 5.01 RESPONSIBILITY OF BUILDER. The Builder shall not have any responsibility to pay assessments regarding Lots which are unsold, unless it elects to pay the same.

SECTION 5.02 - BOOKS AND RECORDS. The Corporation shall keep correct and complete books and records of its accounts and transactions and minutes of the proceedings of the Board of Directors and of any executive or other committee when exercising the powers of the Board of Directors. The books and records of a Corporation may be in written form or in any other form which can be converted within a reasonable time into written form for visual inspection. Minutes shall be recorded in written form but may be maintained in the form of a reproduction. The original or a certified copy of the By-laws shall be kept at the principal office of the Corporation.

shall be recorded in written form but may be maintained in the form of a reproduction. The original or a certified copy of the By-laws shall be kept at the principal office of the Corporation.

SECTION 5.03 - CORPORATE SEAL. The Board of Directors shall provide a suitable seal, bearing the name of the Corporation, which shall be in the charge of the Secretary. The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof. If the Corporation is required to place its corporate seal to a document, it is sufficient to meet the requirement of any law, rule, or regulation relating to a corporate seal to place the word "SEAL" adjacent to the signature of the person authorized to sign the document on behalf of the Corporation.


SECTION 5.04 - BONDS. The Board of Directors may require any officer, agent or employee of the Corporation to give a bond to the Corporation, conditioned upon the faithful discharge of his duties, with one or more sureties and in such amount as may be satisfactory to the Board of Directors.


SECTION 5.05 - MAIL. Any notice or other document which is required by these By-laws to be mailed shall be deposited in the United States mails, postage prepaid.

SECTION 5.06 - AMENDMENTS. Any and all provisions of these By-laws may be altered or repealed and new by-laws may be adopted at any meeting of the Board of Directors.

These By-Laws are adopted by the Board of Directors this 17th day of March, 2006.


W. THOMAS JOHNSON, DIRECTOR


TACI G. JOHNSON, DIRECTOR


VERDEAN V. SPRATLIN, DIRECTOR

1278 773
Recorded in the Above
CORP Book & Page
03-17-2006 02:56:41 PM
Bill English - Probate Judge
Lee County, AL
Book/Ps: 1278/768
Term/Cashier: SCAN3 / 553
Tran: 71.1389.1870
Recorded: 03-17-2006 14:58:14
REC Recording Fee
Total Fees: \$ 23.00

23.00

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
BRECKENRIDGE SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, J & S PROPERTIES, L.L.C., (hereinafter referred to as the "Builder") is the Owner of certain property namely, **BRECKENRIDGE SUBDIVISION**, (hereinafter referred to as "Property") located in Auburn, Lee County, Alabama;

WHEREAS, the Builder desires to impose upon said property and each Lot located in said Development mutual and beneficial covenants, conditions, restrictions, agreements, easements, charges, liens and regulations for the benefit of all Lots on the Property and the future Owners of said Lots and Dwellings;

NOW THEREFORE, J & S PROPERTIES, L.L.C., does hereby proclaim, publish and declare that all of said Property, any part thereof, and each Lot and Dwelling are subject to, held and shall be held, owned, sold, conveyed, transferred, hypothecated, leased, rented, used, occupied, built upon, improved and otherwise used, improved, and maintained subject to the terms of this Declaration which covenants, conditions, restrictions, agreements, easements, charges, liens and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of Builder and upon all Owners and occupants of the Property and any Lot and Dwelling.

**ARTICLE I
DEFINITIONS**

The following definitions shall apply to this Declaration as well as the Articles of Incorporation and By-laws of Breckenridge Owners Association, Inc.

SECTION 1.1 Additional Property. The term "Additional Property" shall mean and refer to any real property and any improvements situated thereon lying adjacent to or in close proximity with the Property which Builder may from time to time submit and add to the provisions of this Declaration.

SECTION 1.2 Architectural Control Committee. The term "Architectural Control Committee" or "ACC" shall mean and refer to the architectural control committee appointed pursuant to Article III hereof with the rights and obligations conferred upon such architectural control committee pursuant to this Declaration.

SECTION 1.3 Architectural Standards. The term "Architectural Standards" shall mean the standards prepared, issued and amended from time to time by the Architectural Control Committee for the purpose of reviewing and approving all exterior improvements, living space, landscaping, and any other Improvements which may be made to any Lot or Dwelling.

SECTION 1.4 Articles of Incorporation. The term "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of the Association.

SECTION 1.5 Assessment. The term "Assessment" shall mean the annual and special assessments and any other charges assessed against any Owner by the Association.

SECTION 1.6 Association. The term "Association" shall mean Breckenridge Owners Association, Inc., an Alabama non-profit corporation.

SECTION 1.7 Board. The term "Board" shall mean and refer to the Board of Directors of the Association and their duly elected successors as provided in the Articles of Incorporation and Bylaws.

SECTION 1.8 Bylaws. The term "Bylaws" shall mean and refer to the bylaws of the Association, as the same may be amended from time to time.

SECTION 1.9 Declaration. The term "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions, Breckenridge Subdivision, and all amendments thereto.

SECTION 1.10 Builder. The term "Builder" shall mean and refer to J & S Properties, L.L.C., its successors, heirs and assigns.

SECTION 1.11 Development. The term "Development" shall mean and refer to the Property and all Improvements thereon and any Additional Property submitted to the provisions of this Declaration.

SECTION 1.12 Dwelling. The term "Dwelling" shall mean and refer to any improved Lot.

SECTION 1.13 Improvement. The term "Improvement" shall mean and refer to all Dwellings, any building, structure, or device constructed, erected or placed upon any Lot which in any way affects the exterior appearance of any Lot or Dwelling. Improvements shall include, but is not limited to, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees shrubbery, landscaping, fences, screening, walls, signs, and any other artificial or man-made changes or alterations to the natural condition of any Lot or Dwelling. Improvements shall also mean any grading, any excavation, or fill, the volume of which exceeds eight (8) cubic yards.

SECTION 1.14 Living Space. The term "Living Space" shall mean and refer to the enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating, and air conditioning equipment, exclusive of garages, carports, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics, and basements.

SECTION 1.15 Lot. The term "Lot" shall mean and refer to any unimproved portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon recordation of a subdivision plat for any portion of the Property, each lot indicated thereon shall be deemed a Lot for the purposes of this Declaration. A parcel of land that is unimproved shall be deemed a Lot rather than a Dwelling for the purpose of this Declaration until the Improvements constructed there are sufficiently complete to reasonably allow habitation in the Dwelling. Upon completion, the Lot and Improvements thereon shall be considered a Dwelling for the purpose of this Declaration.

SECTION 1.16 Mortgage. The term "Mortgage" with an initial capital letter shall mean and refer to any mortgage, deed of trust, or other security instrument encumbering a Lot or Dwelling which has been duly filed for record in the land records of Lee County, Alabama.

SECTION 1.17 Mortgagee. The term "Mortgagee" shall mean and refer to the holder of any Mortgage.

SECTION 1.18 Occupant. The term "Occupant" shall mean any Owner, the family members, guests, tenants, agents, servants, employees, and invitees of any Owner and their respective family members, guests tenants, agents, servants, employees, and invitees and any other persons who occupies or uses any Dwelling within the Development. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

SECTION 1.19 Owner. The term "Owner" shall mean and refer to the record owner, including Builder, of fee simple title to any Lot or Dwelling. An Owner shall not include any Mortgagee unless and until it has foreclosed on its Mortgage and purchased said Lot or Dwelling at foreclosure sale and title to such encumbered Lot is vested in Mortgagee pursuant to a duly recorded deed. An Owner shall not include any lessee, purchaser, contract purchaser, or vendor who has an interest in any Lot or Dwelling solely by virtue of a lease, contract, or other agreement.

SECTION 1.20 Property. The term "Property" shall mean and refer to that certain real property situated in Lee County, Alabama which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference. The Property shall also include any Additional Property made subject to this Declaration.

ARTICLE II MUTUALITY OF BENEFIT AND OBLIGATION

SECTION 2.1 Restrictions and Agreements. The covenants, conditions, restrictions, agreements, easements, charges, liens and regulations set forth in this Declaration are made for the mutual and reciprocal benefit of each Lot and Dwelling and are intended to create mutual, equitable servitudes upon and in favor of each Lot and Dwelling; and to create reciprocal rights and obligations between respective Owners and subsequent Owners of any Lot or Dwelling within the Development; and to create a privity of contract and estate between the Owners, their heirs, legal representatives, successors and assigns.

SECTION 2.2 Additional Property. Builder reserves the right, in its sole discretion, at any time and from time to time to add Additional Property to the provisions of this Declaration. At the time any Additional Property is specifically submitted to the terms and provisions of this Declaration, then such Additional Property shall constitute part of the Property. Submission of Additional Property need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling. An amendment to this Declaration shall refer to this Declaration stating the book and page number of recordation in the land records of Lee County, Alabama, where this Declaration is filed for record and contain a description of the Additional Property, and shall state that said Additional Property is conveyed subject to the terms and conditions in this Declaration. The number of votes in the Association shall be increased by the number of Lots or Dwellings within the Additional Property which are added and submitted to the Declaration and there shall continue to be one vote in the Association per Lot or Dwelling within the Development.

In no event shall Builder be obligated to submit any Additional Property to the provisions of this Declaration situated adjacent to or in close proximity with the Development. Notwithstanding anything provided in this Declaration to the contrary, the provisions in this article may not be modified, rescinded, supplemented or amended, in whole or part, without prior written consent of Builder, its successors or assigns.

SECTION 2.3 Development of Property. Builder shall have the right, but not the obligation, for so long as Builder owns any Lot or Dwelling, to make changes and improvements to all Lots or Dwellings owned by Builder.

SECTION 2.4 Subdivision Plat. Builder reserves the right to modify, amend, revise or otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Builder deems necessary with regard to the Development. Submission of a subdivision plat need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling, or by any Board or Committee.

SECTION 2.5 Reservation of Maintenance Easement. Builder does hereby establish and reserve for the Association, its agents, employees, heirs, successors and assigns a permanent and perpetual right and easement to enter upon any Lot or Dwelling for the purpose of mowing, removing, clearing, cutting, pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Development. Said easement shall not impose any duty or obligation upon Builder or the Association to perform any of the foregoing actions.

SECTION 2.6 Reservation of Environmental Easement. Builder does hereby establish and reserve for the Association and the ACC, its agents, employees, heirs, successors and assigns a permanent and perpetual right and easement on, over, across, and upon all Lots and all unimproved portions of any Lot or Dwelling for the purpose of taking any action necessary to effect compliance with the Architectural Standards, or any watershed, soil erosion, or environmental rules, regulations, or procedures instituted by any governmental authorities or the Board. Except in the case of

1377, 787
101 Book 4 Page 38
emergency situations, the exercise by Builder, the Association or the ACC of the rights reserved in this section shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot.

ARTICLE III ARCHITECTURAL CONTROL COMMITTEE AND REQUIREMENTS OF CONSTRUCTION

SECTION 3.1 Concept. It is intended that the Development will be a residential community of high esteem and of first class quality in homes in a neighborhood environment.

In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Development, to establish and preserve a harmonious design for the Development and to protect and promote the value of the Property, the Lots, the Dwellings, and all Improvements thereon, no Improvements shall be commenced, constructed, erected, installed, placed, moved on, altered, replaced, relocated, permitted to remain on or maintained on any Lot or Dwelling by any Owner, other than Builder, which affects the exterior appearance of any Lot or Dwelling unless plans and specifications have been submitted to and approved by the ACC.

SECTION 3.2 Architectural Control Committee. The ACC shall be composed of not less than three (3) members at all times. For so long as Builder is the Owner of any Lot or Dwelling within the Development, Builder shall have the sole and exclusive right to appoint and remove all of the members of the ACC. At such time as Builder is no longer the Owner of any lot or Dwelling within the Development, or upon Builder's written notice to the Association that it no longer desires to exercise the right to appoint and remove members of the ACC, then the members of the ACC shall be appointed by the Board of the Association.

3.2.1 Any member of the ACC may be removed, with or without cause, by the Builder, until it gives written notice that it no longer desires to exercise the right to appoint and remove members of the ACC; or by the Board, after Builder gives written notice that it no longer desires to exercise this right.

3.2.2 In the event of death or resignation of a member of the ACC, a new member may be appointed by the Builder or if Builder has waived this right then the Board shall make the appointment after Builder gives written notice that it no longer desires to exercise this right.

3.2.3 A duly recorded, written instrument shall be filed with the Judge of Probate of Lee County, Alabama to change the membership of the ACC or to withdraw from the ACC or to restore it to any of its powers and duties. Neither the members of the ACC, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the ACC may designate one or more representatives to act for it.

3.2.4 The primary duty of the ACC shall be to examine and approve or disapprove all plans, including site plans, for construction of Improvements on Lots within the Development in accordance with the provisions of this Declaration. The ACC shall have such other responsibilities, duties and authority as provided for herein.

3.2.5 The ACC is hereby authorized to amend or modify from time to time any Architectural Standard, policies, guidelines, and requirements with respect to the construction, location, design, and landscaping of any Dwelling and any other Improvements on any lot as it deems necessary and the same shall be binding upon and enforceable against all Owners.

SECTION 3.3 Plan Approval. All plans and specifications for any structure or improvement whatsoever to be erected upon or moved upon any Lot by anyone other than Builder and the proposed location thereof on any Lot or Lots, the construction material, color scheme, roofs, later changes or additions after initial approval thereof, and any exterior remodeling, reconstruction, repainting, alterations or additions after initial approval on any Lot, shall be subject to and shall require approval in writing of the ACC before any work is commenced. Construction may not be

1277 788

started before receipt of a letter of approval by the ACC, a copy of which must be signed by the Builder, or Owner, and returned to the ACC for retention.

SECTION 3.4 Review Documents. One set of prints of the drawings and specifications (hereinafter referred to as "plans") for each Dwelling or any Improvements to any lot proposed to be constructed on each Lot shall be submitted for review or approval by the ACC. The plans submitted to the ACC shall be retained by the ACC. Said plans should be delivered to the chairman or any of the members of the ACC at least thirty (30) days prior to commencement of construction. Each such plan must include the following:

3.4.1 All plans for structures shall be not less than 1/8 inch equals 1 foot scale.

3.4.2 All plans must take into consideration the particular topographic and vegetative characteristics of the Lot or Lots involved.

3.4.3 All plans must state the elevations of all sides of the proposed structure as such sides shall exist after finished grading has been accomplished.

3.4.4 The foundation and floor plan(s) shall show the existing grade on each elevation in order that the extent of cut and/or fill areas may be easily and clearly determined.

3.4.5 The site plan shall show all outlines, setbacks, drives, fences, and underground trench locations as a scale of one inch equals twenty (20) feet.

3.4.6 All plans must include a specifications list of proposed materials, color scheme, and samples of exterior materials which cannot be adequately described and of materials with which the Committee is unfamiliar.

SECTION 3.5 Design Criteria, Structure.

3.5.1 It is the intent of this Builder to maintain as many natural surfaces and textures as possible. The following exterior materials are acceptable:

- (a) Brick, stucco, other materials as approved by the ACC.
- (b) Wood shakes or composition shingles.

3.5.2 Each plan for each Lot shall provide off-street parking for at least two (2) motor vehicles.

3.5.3 No window air conditioner shall be installed on the front of any structure.

3.5.4 Underground services to the individual homes for electrical distribution is the intent of the Builder and no overhead electrical wiring shall be installed without prior approval by the ACC, provided however, Lots in the development which border Frazier Avenue will have overhead power lines.

3.5.5 Swimming pools will be permitted provided said pool meets all requirements of the applicable codes of the City of Auburn, Alabama. However, fencing of swimming pool areas must be within achieved set-back lines, and fence type and site location must be approved by the ACC.

3.5.8 All building debris, stumps, trees, etc., must be removed from each Lot by builder as often as necessary to keep the Dwelling and Lot attractive. Such debris shall not be dumped in any area of the Property.

3.5.9 During construction, contractor must keep homes and garages clean and yards mowed, trimmed and groomed.

3.5.10 All Lots shall be landscaped by contractor in accordance with the plans and specifications submitted to the ACC.

1277 789

3.5.11 Drainage of surface water, storm water, and/or foundation drainage may not be connected to sanitary sewers, septic tanks, or field lines.

3.5.12 No outside clothes lines shall be permitted without the ACC's approval.

3.5.13 No exterior above ground liquified fuel storage containers in excess of ten (10) gallons of any kind shall be permitted.

3.5.14 No Lot corner stakes may be removed and in the event that such are removed or destroyed either during construction of a Dwelling or at any other time, it shall be the responsibility of the Owner of the Lot to have such restored by a licensed surveyor at the Owner's expense. The failure of an Owner to restore or replace such Lot stakes in accordance with the final subdivision plat, shall result in the ACC having such work performed and charged the expense thereof to the Owner.

3.5.15 Dust abatement and erosion control measures shall be implemented by the contractor or Owner in all stages of construction. Proper erosion plans shall be submitted to the ACC for approval prior to the construction phase beginning. These plans shall set out in detail the plan and the builder or subcontractor that will be responsible for the implementation of the plan.

3.5.16 The ACC shall have the right to disapprove any builders or contractors prior to beginning of construction.

3.5.17 Exterior concrete block walls must be covered with appropriate material as approved by the ACC.

3.5.18 No plumbing or heating vent shall be placed on the front side of roofs of residences.

3.5.19 Reflective glass with reflection coefficients high enough to result in a mirror appearance is not allowed on buildings surfaces facing the street.

SECTION 3.6 Plans or Specifications Defects. Neither the ACC nor any architect nor agent thereof shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

SECTION 3.7 Outdoor Furniture, Recreational Facilities.

3.7.1 Outdoor furniture of a permanent nature and all recreational appliances, devices and/or structures shall be located at the rear of the Dwelling located on the Lot.

3.7.2 Wood piles shall be located only at the rear of a Dwelling and shall be screened by appropriate landscaping from view from streets and, to the extent practicable, from adjacent Lots.

SECTION 3.8 Fencing.

3.8.1 Fencing must be constructed of chain link that is black or green in color, masonry, brick or wood, but must conform to other fencing and be of good appearance.

ARTICLE IV EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

SECTION 4.1 Residential Lots. All Lots in the Development shall be known and described as residential lots and shall be exclusively for residential purposes only, and no Lot shall be subdivided without the approval of the Builder.

SECTION 4.2 Detached Residence. No structure, except as otherwise provided, shall be erected, altered, placed or permitted to remain on any residential building Lot other than one detached residence not to exceed three (3) stories. Utility or storage buildings may be permitted by approval of the ACC.

SECTION 4.3 Heated Square Footage and Ceiling Height. Every Dwelling on any Lot, exclusive of one story open porches, garages, and carports, shall each have not less than the minimum of square footage of heated, habitable areas as described below:

- (a) Single story Dwelling must have at least 1,400 square feet of heated, habitable space.
- (b) Two story Dwelling must have at least 700 square feet of heated, habitable space on main floor and 700 square feet of heated, habitable space on the upper story.
- (c) Enclosed, heated areas must have a ceiling height of at least eight (8) feet.
- (d) All Improvements must be built on site by a licensed contractor. No Dwelling or other Improvements shall be constructed, in whole or in part, of prefabricated structural components, excluding roof trusses and floor joists. No mobile homes, log homes, modular homes or "kit" homes shall be constructed, placed or assembled on any Lot.

SEE
AMENDMENT

SECTION 4.4 Occupants of Dwellings. Each Lot and Dwelling shall be used for residential purposes only. No dwelling may be occupied by more than two persons not related by blood or marriage.

ARTICLE V GENERAL PROHIBITIONS AND REQUIREMENTS

SECTION 5.1 Conditions of Buildings or Grounds. It shall be the responsibility of each Owner to prevent any unclean, unsightly or unkempt conditions of Dwellings, Lots or Improvements on such Lot which shall tend to decrease the beauty in the specific area or of the Development as a whole.

SECTION 5.4 Noxious, Offensive or Illegal Activities. No noxious, offensive or illegal activities shall be carried on upon any Lot nor shall anything be done on any Lot which may be or may become an annoyance or nuisance to the Owners of Lots in the Development. No firearm, hunting device or weapon of any type shall be discharged in the Development.

SECTION 5.5 Drilling, Refining, or Quarrying Operations. No oil, natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No water pipe shall be installed or maintained on any Lot above the surface of the ground except temporary watering hoses used for irrigation purposes.

SECTION 5.6 Trash, Garbage and Refuse. No trash, garbage or other refuse shall be dumped, stored or accumulated on any Lot. Trash, garbage or other waste shall not be kept on any Lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in clean and sanitary condition and shall be so placed, buried or screened by shrubbery or other appropriate material approved in writing by the Builder or ACC so as not to be visible from any street within sight distance of the Lot at any time except during periods of refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted except during the construction phase without prior approval of the City of Auburn.

SECTION 5.7 Temporary Units and Unfinished Residences. No Improvement of a temporary character, including, but not by way of limitation, a mobile home, recreational vehicle,

trailer, basement, tent or shack shall be used at any time as a residence or as a temporary or permanently. There shall be no occupancy of any Dwelling until the interior and exterior of the Dwelling are completed and a certificate of occupancy is received by the Builder or contractor from the building official of the municipality where the property is located.

SECTION 5.8 Destroyed Structures. Any Dwelling or other Improvements on any Lot in the Development which may be destroyed in whole or in part for any reason must be rebuilt in one (1) year. All debris must be removed and the Lot restored to a slightly condition with reasonable promptness, provided that in no event shall debris remain on any Lot longer than sixty (60) days.

SECTION 5.9 Parking. No house trailer, mobile home, camper, motor home, recreational vehicle, inoperable vehicle, antique vehicle, trailer, or similar equipment or vehicle shall be parked or stored on any road, street, driveway, yard or Lot located in the Development for any period of time in excess of twenty-four (24) hours, except in enclosed garages, except with the approval of the Builder. No trucks larger than one (1) ton pickups (GVW) and no tractors or other excavating machinery shall be parked or stored on any road, street, driveway, yard or Lot located in the Development for any period of time in excess of twenty-four (24) hours, except during the period of construction on the Lot.

SEE AMENDMENT **SECTION 5.10 Non-Residential Activities.** No retail or commercial sales, home industry, religion, school, kindergarten or educational enterprises shall be conducted on any Lot. Professional services and business conducted wholly within the confines of the Dwelling by the Owner or Occupants of the Dwelling and generating limited outside traffic may be permitted with the written approval of the Builder. No Owner or Occupant of any Dwelling erected on any Lot shall ever rent or lease rooms, but such shall not be construed to prevent the rental of an entire residence to a family nor the employment of live-in domestic servants.

SECTION 5.11 Set-Back Lines Control. No building shall be located nearer to the street than as permitted by applicable city ordinance. For the purposes of this paragraph, eaves, steps, and open porches not covered by a roof structure shall not be considered as part of a building, provided however, that this shall not be construed to permit any portion of the building or construction on any Lot to encroach upon another Lot or upon easements reserved or shown on the subdivision plat or plats.

SECTION 5.12 Requirements Between Street and Set-Back Lines. No Improvements or other permanent fixture, excluding landscaping plantings, and mail boxes meeting the requirements of Section 3.2.4 hereof, shall be erected, placed or altered on any Lot between the street and the building set-back line unless the same be a retaining wall of masonry construction which does not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced or stabilized. The exposed part of such retaining wall shall be made of brick, natural stone or concrete block veneered with brick, natural stone or other material approved by the Builder.

ARTICLE VI SET-BACK LINES AND EASEMENTS

SECTION 6.1 Building Set-Back Lines. The building set-back lines shall be in accordance with the requirements of the City of Auburn.

SECTION 6.2 Easement. Utility and drainage easements shall be designated on the plat of the subdivision.

ARTICLE VII OWNERS ASSOCIATION

SECTION 7.1 Association. Builder has organized an association of Owners in order to preserve the aesthetic appearance and the natural setting and beauty of the Development, and to protect and promote the value of the Property, the Lots, the Dwellings, and all Improvements within

the Development. The Association is Breckenridge Owners Association, Inc., and it is an Alabama non-profit corporation. The Association shall be organized by Builder simultaneously with the recording of this Declaration.

SECTION 7.2 Qualification of Members. The Owner of each Lot or Dwelling shall be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot. In the event any Lot or Dwelling is owned by more than one person then the Owners of such Lot shall designate only one representative to serve as a member of the Association who shall exercise all voting rights attributable to the Lot owned by such Owners. No mortgagee shall become a member of the Association until such time, if at all, the Mortgagee becomes an Owner by virtue of a foreclosure of its mortgage and title to such encumbered Lot is vested in Mortgagee pursuant to a duly recorded deed. Each Member of the Association shall at all times comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and all rules and regulations which may from time to time be adopted by the Board or the Members of the Association.

SECTION 7.3 Change of Membership. Change of membership in the Association shall be established by the delivery to the Association of a certified copy of a deed or other instrument filed in the public records of Lee County, Alabama, establishing record title to the Lot in the new Owner. The Owner designated by such instrument shall thereby become a member of the Association and the membership of the prior Owner shall be thereby terminated.

SECTION 7.4 Voting Rights. Each Owner or Owners of a Lot shall be entitled to one vote which shall be cast as provided in the Articles of Incorporation and Bylaws of the Association.

SECTION 7.5 Board of Directors. The affairs of the Association shall be conducted by a Board of not less than three directors elected by a majority of votes cast by Owners at the annual meeting of the Association; provided, however, that Builder shall have the right to appoint or remove, with or without cause, any member of the Board or any officer or officers of the Association until such time as Builder is no longer the Owner of any Lot or Dwelling in the Development. Notwithstanding anything provided in this Declaration to the contrary, the provisions in this section may not be modified, rescinded, supplemented or amended, in whole or part, without prior written consent of Builder, its successors or assigns.

The Board shall have the rights and duties set forth in the Code of Alabama, this Declaration, the Articles of Incorporation and Bylaws of the Association.

SECTION 7.6 Duties and Powers of Association. In addition to the right, duties, responsibilities and obligations of the Association otherwise set forth in this Declaration, the Association shall have the power to do, cause to be done, and otherwise perform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and Bylaws of the Association. The Association may exercise any other right or privilege granted to it by this Declaration or by law. In the event of any conflict, ambiguity or inconsistency between the Code of Alabama, this Declaration, the Articles of Incorporation, the Bylaws or any other rules and regulations adopted by the Association then the provisions of the Code of Alabama, this Declaration, the Articles of Incorporation, the Bylaws, or any rules and regulations adopted by the Association, in that order, shall prevail and each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, covenants and agrees to vote in favor of and execute any amendments as may be necessary to remove or alleviate any such conflict, ambiguity or inconsistency.

The powers of the Association shall include, but not be limited to:

7.6.1 The power to purchase one or more Lots and/or Dwellings and any other real or personal property, whether tangible or intangible, and to hold, lease, mortgage, sell, and otherwise convey the same.

7.6.2 The right to borrow money for the purpose of constructing, repairing, maintaining or improving the Development or any portion thereof or for providing any of the services authorized herein.

7.6.3 The right to give Mortgages or other security instruments encumbering all or any part of any property as security for any loan obtained by the Association, provided, however, that the lien and encumbrance of any such Mortgage shall be subject and subordinate to all of the rights, interests, privileges, easements, licenses, and options reserved or established herein for the benefit of Builder, the ACC, the Association and all Owners and Occupants.

7.6.4 The right to grant and accept easements.

7.6.5 The right to dedicate or transfer fee simple title to all or any portion of the Property to any governmental authority, provided that the dedication or transfer of title is approved by a majority of those Owners present in person or by proxy at a duly held meeting of the Association called for such purpose.

7.6.6 The right to arrange with any governmental authorities or any public or private utilities, or others, for the furnishing of trash collection, water, sewer, and/or security services for the Lots and Dwellings. For so long as Builder shall own any Lot or Dwelling, the Association shall not, without the consent of Builder, borrow money or pledge, mortgage, encumber, sell, or otherwise convey any interest it may have in the Property.

7.6.7 Subject to the provisions of this Declaration, all actions, and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the Development. The Association, through the Board, shall have the right and authority to delegate to any person or entity of its choice such duties of the Association as may be determined by the Board. Builder or any affiliate thereof may be employed as the manager of the Association and the Development for so long as Builder owns any Lot or Dwelling within the Development. Each Owner, by acceptance of a deed or other conveyance of a Lot or Dwelling, shall be deemed to ratify the provisions of this section and specifically be deemed to have approved any such management agreement entered into by the Association and Builder or any affiliate thereof.

7.6.8 The Board may establish and enforce reasonable rules and regulations governing the use of all Lots and Dwellings. These rules and regulations shall be binding upon all Owners and Occupants until and unless such rule or regulation is specifically overruled, cancelled, or modified by the Board or by the majority vote of the total voters of the Association at any regular or special meeting of the Association. No rules or regulations may be overruled, cancelled or modified unless such action is also approved by Builder for so long as Builder owns any Lot or Dwelling in the Development.

SECTION 7.7 Indemnification. The Association shall and does hereby indemnify, defend and agree to hold each and every officer, agent, representative and member of the Board of the Association harmless from and against any and all expenses, including court costs and reasonable attorney's fees, suffered, paid or incurred by any such officer, agent, representative, or member of the Board in connection with any action, suit or other proceeding to which such person may be made a party by reason of or having been an officer, agent representative, or member of the Board of the Association. The officers, agents representatives or member of the Board of the Association shall not be liable for any mistake in judgment, negligence, or otherwise, except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The officers, agents, representatives and members of the Board of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association. The Association agrees to indemnify, defend and hold each and every officer, agent, representative and member of the Board of the Association harmless from any and all liability to others on account of any such contract or commitment.

ARTICLE VIII ASSESSMENTS

SECTION 8.1 Share of Expenses; Lien Right. Each Lot Owner shall pay an annual assessment as provided in Section 8.3 and special assessments from time to time as provided in

Section 8.6. No Owner may be exempt from liability of his share of such assessments. The annual and special assessments, together with interest thereon and costs of collection thereof, including attorney's fees, shall be charged against each Lot. The Association shall have therefor a continuing lien upon each Lot to secure all assessments made against the Owner of such Lot in the Development.

SECTION 8.2 Priority of Lien. The lien against any Lot for assessments in favor of the Association shall be prior and superior to all other liens except:

1. Any lien for real estate taxes and other governmental assessments on the Lot.
2. The lien of any first mortgage on the Lot filed for record before the date on which the assessment sought to be enforced became delinquent.
3. Any other lien recorded prior to the time of recording of these restrictions, if any.

The sale or transfer of any Lot shall not affect the Association's lien.

SECTION 8.3 Annual Assessments for Expenses. Annual Assessments may be levied by the Association against each Lot and shall be collected and held by the Association for the payment of expenses including without limitation, administrative expenses, utility charges, repair, replacement and maintenance expenses for the Development. Annual assessments shall begin the first day of January following the resignation or replacement of the initial Board of Directors.

SECTION 8.4 Initial Assessments. There shall be an initial assessment of \$200.00 payable to the Association and due and payable at the time of sale of each Lot from Builder to an Owner. The Association will retain the services of Builder, to manage the Development for so long as Builder holds title to any Lot or Dwelling within the Development. All sums collected for the initial assessment shall be deposited into an escrow account by Builder who will maintain the Association's escrow account. At the time Builder conveys the last lot in the Development, or within 180 days thereafter, Builder shall transfer the escrow account to the Association.

SECTION 8.5 Annual Budget. After the initial Board of Directors resigns, the Board of Directors shall, at the beginning of each fiscal year of the Association, adopt a proposed budget for the Builders, and shall provide a copy of the proposed budget to all Builders. Thereafter, the Board of Directors shall set a date for a meeting of Builders to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after delivery or mailing of the budget to the Builders. Unless at that meeting a majority of votes cast by the Builders present in person or by proxy shall reject the budget, the budget shall thereupon be ratified, whether or not a quorum shall be present at such meeting. In the event the proposed budget shall be rejected, the periodic budget last ratified by the Builders shall be continued until such time as the Builders shall ratify a subsequent budget proposed by the Board of Directors.

SECTION 8.6 Special Assessments. The Association may, by majority vote of Lot Owners voting in person or by proxy at a meeting duly called for such purposes, levy special assessments for any costs in connection with the construction, reconstruction, repair, or replacement of areas in the Development.

SECTION 8.7 Non-Payment Remedies. Any assessment which is not paid when due shall be delinquent. If an assessment for a Lot is not paid within ten (10) days after the due date, the Lot Builder(s) shall be in default and the Association may declare the balance of the entire annual assessment for such Lot immediately due and payable. If the assessments in not paid within thirty (30) days after the date due, the assessment shall bear interest from the date due at the rate of twelve percent (12%) per annum, and the Association may bring suit to recover a money judgment for the unpaid assessment against the Lot Builder(s) without waiving the lien, and/or file a lien against such Lot. When either of the preceding remedies are exercised by the Association, interest, costs, and attorney's fees equal to fifteen percent (15%) of the principal and interest due shall be added to the amount of such assessment as may then be due. Further, if the assessment is not paid within thirty (30) days after the date of default, the Association shall give prompt notice of default to the holder of any first mortgage upon said Lot. Each Lot Owner(s) by his acceptance of a deed to a Lot from the Builder or from any subsequent Owner of a Lot, vests in the Association or its agents the right

and power to bring all actions against him personally for the collection of ~~the debt~~ ^{the debt} and to file and foreclose a lien in a suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property. The lien provided for herein shall be in favor of the Association, shall be for the benefit of all Lot Owners. If a Lot Owner defaults in the payment of his assessment, the Association shall have the right to declare the entire assessment for the year to be due and payable, together with all costs and attorney's fees as provided herein, and may sell the Lot subject to such assessment to the highest bidder at public auction in front of the Lee County Courthouse by auctioneer after first having given public notice of the time place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in Lee County, Alabama, and, upon payment of the purchase money, the auctioneer conducting said sale for the Association is authorized to execute to the purchaser as said sale a deed to the property so purchased. The Association, acting on behalf of the Lot Owners, shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. Non-use or abandonment of a Lot shall not constitute a defense against any action on account of any unpaid assessments

SECTION 8.8 Responsibility of Builder. The Builder shall not have any responsibility to pay assessments regarding Lots which are unsold, unless it elects to pay the same.

ARTICLE IX ENFORCEMENT

SECTION 9.1 Enforcement. In the event of violation or breach of any of these restrictions by any property Owner, or family of such Owner, or agent or tenant or invitee of such Owner, the Owner(s) of Lot(s), the Builder, or any party to whose benefit the restrictions shall inure, shall have the right to proceed at law or in equity to compel compliance with terms and conditions hereof, to prevent the violation of said restrictions, to sue for and recover damages, reasonable attorney's fees, cost of court, or other charges or to take all such courses of action at the same time, or such other legal remedy it may deem appropriate. Any delay or failure on the part of that party to invoke an available remedy set forth herein shall not be held to be a waiver or an estoppel of that party or of any other party to assert any right available to that party upon the recurrence or continuation of said violation of the occurrence of a different violation.

ARTICLE X CONSIDERATION

SECTION 10.1 Consideration. The grantee(s) of any Lot subject to the coverage of these Restrictions and the Owner(s) of such Lot from time to time, by the acceptance of the conveyance or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from the original Owners or a subsequent Owner of such Lot, shall accept such deed or other contract subject to each and all of these Restrictions and the agreement herein contained, whether or not such restrictions are recited in the instrument of conveyance.

ARTICLE XI TERMS AND MODIFICATIONS

SECTION 11.1 Terms. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time said covenants shall expire unless extended. One or more extensions of the term of these covenants may be made by recording, prior to the expiration of the original terms or any extension thereof, an instrument signed by the majority of the then Owners of the Lots extending the term of the said covenants. No extension shall be for a term longer than ten (10) years.

SECTION 11.2 Modification. Covenants and restrictions can be changed, modified, amended, altered or terminated at any time during the twenty (20) years from date by duly recorded

1277 796

written instrument executed by the then Owners (including mortgagees and other lien holders of record, if any) of the Lots in said Development.

ARTICLE XII SEVERABILITY

SECTION 12.1 Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the restrictions and of and from every other one of the restrictions and of and from every combination of the restrictions. Invalidation by any Court of any restrictions in this instrument shall in no way affect any of the other restrictions which shall remain in full force and effect.

SECTION 12.2 Builder's Rights to Improve Standards. The undersigned may include in any contract or deed hereinafter made or entered into, such modifications and/or additions to this Declaration, which will, by their nature, raise the standards of the Development.


ARTICLE XIII CAPTIONS AND GENDER

SECTION 13.1 Captions. The captions preceding the various paragraphs and subparagraphs of these Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions.

SECTION 13.2 Gender. Wherever or whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

IN WITNESS WHEREOF, J & S Properties, L.L.C., has caused this Declaration to be properly executed, by W. Thomas Johnson, Managing Member of T & T Properties, L.L.C, Member of J & S Properties, LLC, and Verdean V. Spratlin, Member, who are all the members of J & S Properties, L.L.C., this the 12th day of March, 2006.

J & S PROPERTIES, L.L.C.

By: 
W. Thomas Johnson, Managing Member of
T & T Properties, LLC, Member

By: 
Verdean V. Spratlin, Member

STATE OF ALABAMA)
)
COUNTY OF LEE)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **W. Thomas Johnson** whose name as **Managing Member of T & T Properties, LLC**, a Member of **J & S PROPERTIES, L.L.C.**, an **Alabama Limited Liability Company**, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of this Declaration, he, as such Managing Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 17 day of March, 2006.

Kathryn A. Ingram
Notary Public
My Commission expires: 07/28/07
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sep 24, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
)
COUNTY OF LEE)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **Verdean V. Spratlin** whose name as **Member of J & S Properties, L.L.C.** an **Alabama Limited Liability Company**, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of this Declaration, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 17 day of March, 2006.

Kathryn A. Ingram
Notary Public
My Commission expires: 07/28/07
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sep 24, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

1277 797
Recorded in the Above
MISC Book & Page
03-17-2006 03:01:31 PM
Bill English - Probate Judge
Lee County, AL
Book/Pg: 1277/784
Term/Cashier: SCANS / ss3
Tran: 71.1309.1071
Recorded: 03-17-2006 15:05:22
REC Recording Fee
Total Fees: \$ 47.00 47.00

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF BRECKENRIDGE SUBDIVISION**

WHEREAS, J & S PROPERTIES, L.L.C., (hereinafter referred to as the "Developer"), is the owner and developer of certain lots known as **BRECKENRIDGE SUBDIVISION** (hereinafter referred to as "Subdivision") located in Auburn, Lee County, Alabama and shown by the plat of subdivision of Breckenridge Subdivision as recorded in Plat Book 27, at Page 152, in the Office of the Judge of Probate of Lee County, Alabama;

WHEREAS, The Developer caused certain covenants, conditions and restrictions to be filed for record in Book 1277, at Page 784, in the Office of the Judge of Probate of Lee County, Alabama;

NOW THEREFORE, J & S PROPERTIES, L.L.C., does hereby proclaim, publish and declare that all of said lots are subject to, held and shall be held, conveyed hypothecated or encumbered, rented, used, occupied, and improved subject to the following restrictions which shall run with the land and shall be binding upon J & S PROPERTIES, L.L.C., and upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such restrictions. The restrictions contained herein shall apply only to the lots in Breckenridge Subdivision and shall not apply to any other land developed or that may become owned by J & S PROPERTIES, L.L.C., even though such land may be contiguous with the land described above and known as Breckenridge Subdivision.

Article IV, Exclusive Residential Use and Improvements, Section 4.4 is hereby amended to read as follows:


SECTION 4.4 Occupants of Dwellings. Each Lot and Dwelling shall be used for residential purposes only. No dwelling may be occupied by more than three persons not related by blood or marriage.

Except as modified by this Amendment, all of the terms and provisions of the Declaration of Covenants, Conditions and Restrictions of Breckenridge Subdivision are hereby expressly ratified and confirmed, shall remain in full force and effect and shall apply to all lots in said subdivision.

IN WITNESS WHEREOF, J & S Properties, L.L.C., has caused this First Amendment to Declaration of Covenants, Conditions and Restrictions to be properly executed, by W. Thomas Johnson, Manager of T & T Properties, L.L.C., Member and Verdean V. Spratlin, Member, who are all the members of J & S Properties, L.L.C., this the 16TH day of November, 2006.

J & S PROPERTIES, L.L.C.

T & T PROPERTIES, L.L.C., an Alabama
Limited Liability Company, Member of J &
S Properties, L.L.C.

By: 
Verdean V. Spratlin, Member

By: 
W. Thomas Johnson, as Manager of T & T
Properties, L.L.C., Member

STATE OF ALABAMA)
)
COUNTY OF LEE)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **W. Thomas Johnson** whose name as **Manager of T & T Properties, L.L.C.**, a Member of **J & S PROPERTIES, L.L.C.**, an **Alabama Limited Liability Company**, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of this Declaration, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 16th day of November, 2006.

Kathryn A. Chapman
Notary Public
My Commission expires: 07/28/07
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sep 24, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
)
COUNTY OF LEE)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that **Verdean V. Spratlin** whose name as **Member of J & S Properties, L.L.C.** an **Alabama Limited Liability Company**, is signed to the foregoing Declaration, and who is known to me, acknowledged before me on this day that, being informed of the contents of this Declaration, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 16th day of November, 2006.

Kathryn A. Chapman
Notary Public
My Commission expires: 07/28/07
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sep 24, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Book/Pg: 1280/229
Term/Cashier: SCAM / AP
Tran: 1014.22002.29859
Recorded: 11-21-2006 12:26:14
REC Recording Fee
Total Fees: \$ 11.00

11.00

Feb 27 07 01:40p

James E. Cox

334-621-5579

P. 1

**SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF BRECKENRIDGE SUBDIVISION**

1281 79
Recorded in the Above
Book 1277
Page 784
02/24/2007 12:11 PM
Bill English - Probate Judge
Lee County, AL

WHEREAS, J & S PROPERTIES, L.L.C., (hereinafter referred to as the "Developer"), is the owner and developer of certain lots known as BRECKENRIDGE SUBDIVISION (hereinafter referred to as "Subdivision") located in Auburn, Lee County, Alabama and shown by the plat of subdivision of Breckenridge Subdivision as recorded in Plat Book 27, at Page 152, in the Office of Judge of Probate of Lee County, Alabama; and

WHEREAS, Warren Properties, LLC owns Lot 5 of Breckenridge Subdivision; and

WHEREAS, The Developer caused certain covenants, conditions and restrictions to be filed for record in Book 1277, at Page 784, and amendments thereto were filed for record in Book 1280, at Page 229, in the Office of the Judge of Probate of Lee County, Alabama;

NOW THEREFORE, J & S PROPERTIES, L.L.C., does hereby proclaim, publish and declare that all of said lots, including Lot 5 by consent of Warren Properties, LLC, are subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied, and improved subject to the following restrictions which shall run with the land and shall be binding upon J & S Properties, L.L.C., Warren Properties, LLC and upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such restrictions. The restrictions contained herein shall apply only to the lots in Breckenridge Subdivision and shall not apply to any other land developed by, or owned by, J & S Properties, L.L.C. even though such land may be contiguous with the land described above and known as Breckenridge Subdivision.

Article V, General Prohibitions and Requirements, Section 5.10 Non-Residential Activities is hereby amended and shall now be as follows;

SECTION 5.10 Non-Residential Activities. No retail or commercial sales, home industry, religious, school, kindergarten or educational enterprise shall be conducted on any Lot. Professional services and business conducted wholly within the confines of the Dwelling by the Owner or Occupants of the Dwelling and generating limited outside traffic may be permitted with the written approval of the Builder.

Except as modified by this Second Amendment, all of the terms and provisions of the Declaration of Covenants, Conditions and Restrictions of Breckenridge Subdivision, including the First Amendment thereto, are hereby expressly ratified and confirmed and shall remain in full force and effect and shall apply to all lots in said subdivision.

IN WITNESS WHEREOF, J & S Properties, L.L.C. and Warren Properties, LLC, have caused this Second Amendment to Declaration of Covenants, Conditions and Restrictions to be properly executed by W. Thomas Johnson, Manager of T & T Properties, L.L.C., Member of J & S Properties, L.L.C., and Verdean V. Spratlin, Member of J & S Properties, L.L.C., and also by John E. Warren, Member of Warren Properties, LLC, this the 13th day of February, 2007.

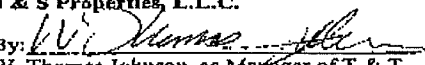
J & S PROPERTIES, L.L.C.

By: 
Verdean V. Spratlin, Member

WARREN PROPERTIES, LLC

By: 
John E. Warren, Member

T & T PROPERTIES, L.L.C., an Alabama
Limited Liability Company, Member of
J & S Properties, L.L.C.

By: 
W. Thomas Johnson, as Manager of T & T
Properties, L.L.C., Member