

**DECLARATION OF PROTECTIVE COVENANTS FOR
WYNLAKE SUBDIVISION
AS RECORDED IN MAP BOOK 19, PAGE 156
IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA**

(STATE OF ALABAMA)
(COUNTY OF SHELBY)

KNOW ALL MEN BY THESE PRESENTS THAT: Whereas the undersigned Metropolitan Homes, Inc. an Alabama Corporation know as Owner (s) of Wynlake Subdivision (which together with its successors and assigns, is hereafter referred to as "Developer"), is the owner of all that certain real property situated in Shelby County, Alabama, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the Development"). All lots shown on the subdivision plat (the Subdivision Plat") for the Development are hereinafter referred to individually as a "Lot" and collectively as the "Lots".

WHEREAS, Developer desires to subject all the Development and each Lot located therein and the owners of those lots to the easements, covenants, conditions, assessments, limitations and restrictions hereinafter set forth.

NOW, THEREFORE, Developer does hereby expressly adopt the covenants, conditions, limitations and restrictions for the Development as set forth in these Protective Covenants and does hereby declare that the Development and each Lot located in the Development shall be and the same are hereby subject to the following easements, covenants, conditions, assessments, limitations and restrictions:

ARTICLE I

ARCHITECTURAL REVIEW COMMITTEE

1.01 The ARC will consist of no more than five (5) persons each of whom will be designated and may be removed at any time by the Developer, until such time as Developer relinquishes in writing the authority to appoint members to the ARC to the Association. At such time as Developer no longer owns any Lot in the Development or upon Developer's written notice to the Association that it no longer desires the right to exercise the right to appoint and remove members of the ARC, then the Board of Directors of the Association shall have the right to appoint and terminate, with or without cause, all members of the ARC.

1.02 All plans and specifications, including plot plans, for any improvements to a

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10:02 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
026 MCD 71.00

Inst # 1995-30874

Lot, exterior materials texture and color selections for any dwellings and the plans for all mailboxes and entrance columns serving any Lot in the Development shall be first filed with and approved by the ARC before any construction is commenced on such Lot. The ARC shall have the authority to require modifications and changes in plans and specifications if it deems the same necessary. Developer and the ARC reserve the right to require use of one (1) uniform mailbox and post throughout the Development.

1.03 The authority to review and approve plans and specifications as provided herein is a right and not an obligation. Owners (and their respective contractors) shall have the sole obligation to oversee and construct dwellings in accordance with the restrictions hereof and the plans and specifications approved by the ARC. No dwelling, buildings, structures or other improvements of any nature shall be constructed, erected, placed or maintained on any Lot until such time as the ARC has approved in writing the plans thereof. The ARC shall have the right to establish and amend from time to time written rules, regulations and standards governing policies, guidelines and minimum requirements relating to the construction and alteration of any dwellings or other improvements on any Lot, as well as the content and types of information required to be submitted to the ARC for its approval, each of which shall be in addition to the provisions and requirements set forth herein.

1.04 Any exterior remodeling, reconstruction, alterations or additions to an existing dwelling or alter the exterior appearance of a dwelling must be approved by the ARC. Interior remodeling, reconstruction or alterations not affecting the exterior appearance of a dwelling shall not require the written approval of the ARC, but shall comply with all restrictions and covenants set forth herein.

1.05 Neither the ARC nor any architect nor agent thereof nor Developer shall be responsible to check for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications. **EACH OWNER, BY ACCEPTANCE OF A DEED TO ANY LOT, DOES HEREBY WAIVE AND RELEASE THE ARC AND DEVELOPER AND ANY OF THEIR RESPECTIVE AGENTS, OFFICERS, DIRECTORS, MEMBERS AND SUCCESSORS AND ASSIGNS, FROM ANY LIABILITY OF ANY NATURE WHATSOEVER ARISING FROM DAMAGE, LOSS OR EXPENSE SUFFERED, CLAIMED, PAID OR INCURRED BY ANY OWNER ON ACCOUNT OF ANY DEFECTS IN ANY PLANS AND SPECIFICATIONS SUBMITTED TO OR APPROVED BY THE ARC, ANY DEFECTS RESULTING IN ANY WORK DONE IN ACCORDANCE WITH SUCH PLANS AND SPECIFICATIONS, THE FAILURE OF THE ARC TO APPROVE OR THE DISAPPROVAL OF ANY PLANS OR OTHER DATA SUBMITTED PURSUANT TO THE REQUIREMENTS OF THIS ARTICLE III AND ANY INJURY TO PROPERTY OR PERSON, INCLUDING DEATH, ARISING FROM ANY DEFECT IN ANY IMPROVEMENTS CONSTRUCTED**

ON SUCH OWNER'S LOT.

1.06 The ARC shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. Any approval granted by the ARC shall be effective only if such approval is in writing. The ARC shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of these Protective Covenants, including, without limitation, purely aesthetic considerations, failure to comply with any of the provisions of these Protective Covenants, failure to provide requested information, objection to exterior design, appearances or material, objection on the ground of incompatibility with the overall scheme of development for the Development, objection to location of any proposed improvements on any Lot, objection to the color theme, finish, proportions, style of architecture, height, bulk or appropriateness of any dwellings or other improvements on any Lot or any other matter which in the sole and absolute judgment of the ARC, would render the proposed dwelling or other improvements inharmonious with the general plan of development for the Development. The approval of plans, specifications and other data for any one specific dwelling shall not be deemed an approval or otherwise obligate the ARC to approve similar plans, specifications or data for any other dwelling to be constructed on any other Lot within the development.

1.07 THE DEVELOPMENT MAY BE LOCATED IN AN AREA WHICH INCLUDES UNDERGROUND MINES, TUNNELS, SINKHOLES AND SUBSURFACE CONDITIONS. THE APPROVAL OF PLANS AND SPECIFICATIONS BY THE ARC SHALL NOT BE CONSTRUED IN ANY RESPECT AS A REPRESENTATION OR WARRANTY BY THE ARC OR DEVELOPER TO ANY OWNER THAT THE SURFACE OR SUBSURFACE CONDITIONS OF ANY LOT ARE SUITABLE FOR THE CONSTRUCTION OF A DWELLING OR OTHER STRUCTURES THEREON. IT SHALL BE THE SOLE RESPONSIBILITY OF EACH OWNER TO DETERMINE THE SUITABILITY AND ADEQUACY OF THE SURFACE AND THE SUBSURFACE CONDITIONS OF THE LOT. NEITHER DEVELOPER NOR THE ARC SHALL BE LIABLE OR RESPONSIBLE FOR ANY DAMAGE OR INJURY SUFFERED OR INCURRED BY OWNER OR ANY OTHER PERSON AS A RESULT OF SURFACE OR SUBSURFACE CONDITIONS AFFECTING A LOT OR ANY PORTION THEREOF, INCLUDING, WITHOUT LIMITATION, ANY SURFACE OR SUBSURFACE DRAINAGE AND ANY UNDERGROUND MINES, TUNNELS, SINKHOLES OR OTHER CONDITIONS OR TYPES OF GROUND SUBSIDENCE OCCURRING ON OR UNDER ANY LOT.

1.08 The ARC shall have the right to establish, amend, change and modify from time to time reasonable charges and fees for the review of any plans and specifications submitted pursuant to the provisions hereof. Furthermore, the ARC shall, upon request and at reasonable charges, furnish to any Owner a written certificate setting forth whether all necessary ARC approvals have been obtained in connection of any dwelling or other

improvements on any Lot.

1.09 The ARC, in its sole and absolute discretion, shall have the exclusive right to grant variances with respect to any of the matters set forth in these Protective Covenants. Any variance approved by the ARC shall be in writing and shall be executed by either the chairman or the vice-chairman of the ARC.

1.10 Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenants and agreement, and, in the event any one (1) or more of said covenants or restrictions shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

ARTICLE II

EXCLUSIVE RESIDENTIAL USE AND IMPROVEMENTS

2.01 All Lots shall be known and described as residential lots and shall be used for single family residential purposes exclusively. No Lot shall be subdivided or resubdivided without prior written approval or Developer.

2.02 No structure shall be erected, altered, placed or permitted to remain on any Lot other than One (1) detached single family dwelling not to exceed two and one-half (2 - 1/2) stories, or forty (40) feet in height, and a private attached garage. No mobile home or modular home is allowed. Any dwelling will be in conformity to the standards set herein and approved by the Architectural Review Committee (hereinafter referred to as ("ARC")), established by Developer pursuant to Article III hereof.

2.03 Notwithstanding anything provided to the contrary herein, Developer shall be permitted to construct and maintain on any Lot a structure and related facilities which may be designed and used as a construction field office and as a sales/marketing office.

2.04 Subject to the provisions of Articles VII and VIII below and the rights retained below by the ARC, each Lot and any dwelling, and garage shall be subject to the following minimum setbacks:

Front: Thirty-five (35) feet from dedicated road right of way;
Side: Ten (10) feet from each side Lot line; and
Rear: Forty (40) feet from the rear Lot line.

The ARC reserves and shall have the right to grant variances to the foregoing

setback requirements. No structure (other than the residential dwelling and any attached garage) may be constructed closer to the ingress and egress road than the back of the residential dwelling. Any buildings of any nature including gazebos and decks built on any Lot must conform to a residential nature and must be approved by the ARC.

2.05 No Lot shall be used except for single-family residential purposes. No dwellings shall be erected on any Lot containing less than One Thousand Four Hundred (1400) square feet of living (heated and cooled) space for a One (1) story dwelling; No less than One Thousand Six Hundred (1600) square feet of living (heated and cooled) space for a One and One-Half (1-1/2) Story dwelling with a minimum of One Thousand Twelve Hundred (1200) square feet on the main level; No less than One Thousand Six Hundred (1600) square feet of living (heated and cooled) space for a Two (2) Story dwelling with a minimum of Eight Hundred square feet on the main level. The ARC reserves and shall have the right to grant reasonable variances from the square footage requirements so long as the overall square footage meets or exceeds the minimum requirements at the sole discretion of the ARC. Any and all dwellings, garages and other improvements of any nature to any Lot must be approved by the ARC. Square footage measurements shall not include porches, garages, basements or decks.

2.05.1 Notwithstanding 2.04 and 2.05 above, or any other provision in these Covenants, the Developer may develop any new, additional section under 7.01 and as provided in these covenants, using different set-backs and building requirements so long as they conform to zoning approved by the City of Alabaster. The ARC reserves and shall have the right to grant reasonable variances from the square footage requirements, so long as the overall square footage meets or exceeds the minimum requirements, at the sole discretion of the ARC. Any and all dwellings, garages and other improvements of any nature to any Lot must be approved by the ARC. Square footage measurements shall not include porches, garages, basements or decks.

2.06 All dwellings will have wooden, aluminum or vinyl windows; brick, dryvit, stucco or stone on all four (4) sides of the foundation with no exposed block. The ARC reserves and shall have the right to grant variances to the foregoing requirements.

2.07 Any Lot Owner (which, together with their respective heirs, executors, personal representatives, successors and assigns, is hereinafter individually referred to as an "Owner" and collectively as the "Owners") who purchases from the Developer shall install a concrete sidewalk on each Lot purchased at Owner's expense according to the dimensions approved by the ARC (sidewalk to be located twenty-four inches (24") from curb with a width of forty-two inches (42").

2.08 The entrance way to the Development and all areas on the recorded Subdivision Plat which are depicted as common area and any and all other areas or improvements with the Development which Developer may from time to time in its sole discretion designate as common area, including, without limitation, nature, recreational

amenities, sidewalks, parks and play areas within the Development, shall be for the purpose of maintenance and upkeep considered common area (collectively, the "Common Area"), and shall be maintained by the Wynlake Residential Association, Inc., as hereinafter provided. Each Lot Owner shall be assessed for maintenance, upkeep and expenses related to the Common Areas as set out in the Covenants and related documents referred to in these Covenants. The amount of the assessment is subject to change and cannot be fixed and, consequently, the Developer makes no representation as to the amount of the assessment and the Lot Owner acknowledges he is subject to the varying assessments. Should new sectors be added, as is allowed by these Covenants, new Common Areas will be added and the assessment will likely change as a result of increased Common Area and increased number of Lot Owners. The nature and extent of Common Areas in the new sectors has not been determined and the Developer makes no representation as to the nature and extent of Common Areas in the new sectors and the Lot Owner acknowledges he is subject to assessment, along with all Lot Owners, for these new Common Areas should any be added.

2.09 In a special case where the lay of the land won't allow for continue side walk special landscaping could replace the side walk, in such a case landscaping must be approved by the ARC.

ARTICLE III

GENERAL REQUIREMENTS

3.01 It shall be the responsibility of each Lot owner (which, together with their respective heirs, executors, personal representatives, successors and assigns, its hereinafter individually referred to as an "Owner" and collectively as the "Owners") to prevent the development from any unclean, unsightly or unkept conditions of any dwelling or grounds on such Owner's Lot which may tend to decrease the beauty of the specific area or of the neighborhood as a whole.

3.02 No refuse pile or unsightly object shall be allowed to be placed or suffered to remain upon any part or any Lot or the Development, including vacant Lots or Common Area. Developer, for itself and the Association, reserves the right (after ten (10) days prior written notice to an Owner) to enter any Lot during normal working hours for the purpose of removing trash or refuse therefrom which, in the sole opinion of either Developer or the Association, detracts from the overall beauty and safety in the Development, and may charge the Owner of such Lot a reasonable cost for such services, which charge shall constitute a lien upon such Lot enforceable by appropriate proceedings at law or equity or as hereinafter provided.

3.03 No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs and/or cats (not to exceed two (2) in number), other household

pets, or maintained for any commercial purpose, subject to appropriate zoning ordinances.

3.04 No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners.

3.05 No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

3.06 No trash or garbage or other refuse shall be dumped, stored or accumulated on any Lot or Common Area. 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 a clean and sanitary condition and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the ARC as not to be visible from any road or within sight distance of any other Lot at anytime except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction of a dwelling on such Lot, or with approval of or by the Fire Department having jurisdiction over the Development.

3.07 Except as authorized in Section 2.03 above, No structure of a temporary character, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently or otherwise allowed to remain on any Lot without the ARC'S approval. There shall be no occupancy of any dwelling unit until the interior and exterior of the dwelling is complete and a Certificate of Occupancy issued by the appropriate governmental authorities.

3.08 No signs of any kind at any time shall be displayed to the public view on any Lot except as may be approved by the ARC. All signs shall comply with the design specifications of the ARC. No sign shall be nailed to trees.

3.09 When the construction of any dwelling is once begun, work thereon must be prosecuted diligently and continuously and the dwelling on such Lot must be completed within twelve (12) months.

3.10 Garage doors shall not be permitted on the front of the dwellings. Unless approved in writing by the ARC, all garage doors shall be located on the side or at the rear of the dwelling.

3.11 Outside air conditioning units may not be located in the front yard or within any side yard adjacent to any street on corner lots. Utility meters shall not be located on the front of a dwelling and shall not be visible from any street or road.

3.12 Wood frame, vinyl or painted aluminum windows are allowed to be used on the sides, fronts and rears of all dwelling constructed, however wood windows are preferred on the front of all dwellings and may be required by the ARC on an individual basis.

3.13 No concrete block work, including foundations, concrete block steps, walkways, walls or any other concrete block work, whether painted, or otherwise, shall show above ground or from the exterior of any dwelling.

3.14 The fronts and sides of all dwellings shall be primarily brick, dryvit, stucco, or stone. Siding shall only be permitted on the back of a dwelling as may be approved by the ARC. The ARC shall have the right, in its sole and absolute discretion, to establish what types of exterior building materials may be utilized on any dwellings and garages or improvements to a Lot.

3.15 Under no condition is chain link fencing allowed on any Lot. All other types of fencing must be approved in writing by the ARC prior to construction.

3.16 No automobiles or other vehicles will be stored on any Lot or Common Area or kept on blocks unless in the basement or garage of a dwelling. Boats, utility trailers, recreational vehicles, and travel trailers must be parked or stored in the basement or garage of a dwelling. No tractor trailer trucks, panel vans or other commercial trucks in the excess of One (1) ton classification shall be parked or stored on any Lot or Common Area.

3.17 No satellite, microwave dishes or television or radio antennas shall be placed on any Lot unless approved in writing by the ARC, but in no event shall satellite, microwave dishes or television or radio antennas be visible from any street in the Development. Eighteen (18") inch Digital Receivers shall be permitted to be placed on the dwelling so long as it is not visible from any street with the approval of the ARC.

3.18 No individual sewage disposal system shall be permitted on any Lot unless such system is designated, located and constructed in accordance with the requirements, standards, and recommendations of both state and local public health authorities. Approval of such system as installed shall be obtained from such authority.

3.19 Upon the completion of a dwelling, all front and side yards which are not left in a natural wooded state will be landscaped with sod and other landscaping approved by the ARC. The rear yard may be seeded or sprigged.

3.20 The roof pitch of any dwelling shall not be less than a 10 & 12 inches unless first approved in writing by the ARC. All roof vents & pipes shall be located on the rear or sides of the dwelling but not visible from the front. No solar or other energy collection device or equipment shall be maintained on any Lot or dwelling if the same would be

visible from the street. No projections of any type shall be allowed above the roof of any dwelling except for approved chimneys and vent stacks. All roofing will be Natural Colored Architectural Shingles unless first approved in writing by the ARC.

3.21 All porches on the front and sides of any dwelling shall be supported by the foundation of the dwelling, unless otherwise approved by the ARC.

3.22 No cantilevered chimney chases shall be allowed on the front of any dwelling. All chimney chases shall be supported by the foundation of the dwelling, unless otherwise approved by the ARC.

3.23 All driveways visible from the street must be concrete finish or, (with the approval of the ARC, asphalt.)

3.24 No Lot shall be cultivated for crops of any sort, except for gardens of reasonable size, which are to be located at the rear of a dwelling and not visible from any public street.

3.25 No fence, wall, hedge or shrub planting which obstructs sight lines from any roadways within the Development shall be placed or permitted to remain on any Lot.

3.26 The intent of the Developer is to preserve for present and future Owners a heavily wooded physical environment in which a maximum amount of existing vegetation is preserved in an undisturbed state, typical of an oak-hickory or pine forest, and each Owner is hereby required to replace dying, diseased or absent trees in order to maintain a desired degree of tree coverage. All Lots shall be landscaped in accordance with standards established by the ARC. It is also the intent of the Developer to preserve a minimum number of "flowering trees" visible from the street right-of-way.

3.27 The Developer reserves the right to make any road or other improvements within the Development, to change or extend the present road or other street grades, if necessary, without liability to the Owners for any claims for damages; and further reserves the right to change or modify the restrictions on any Lots and Development.

3.28 During all construction, all vehicles, including those delivering supplies, must enter each Lot at the driveway only as approved by the ARC so as not to unnecessarily damage trees, street paving and curbs. Any damage not repaired by the Owner or his contractor will be repaired by the Developer or the ARC (after (10) days written notice), and will be charged to the Owner of such Lot at a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity or as hereinafter provided. During construction, all Owners must keep the homes, garages and building sites clean and attractive. No construction debris will be dumped in any area of the Development or any Common Area.

3.29 Except with the prior written consent of the Developer, no Lot shall be sold or used for the purpose of extending any public or private road, street or alley or to provide a means of access to any other real property situated adjacent to or in close proximity with the Development.

3.30 Motorized vehicular traffic or any type is strictly prohibited on any Common Area except as may be required by the Developer or the Association for maintenance or construction.

3.31 Wood piles shall be located only at the rear of a dwelling and should be screened from view from public streets and adjacent Lots. Children's tots, swingsets, jungle gyms, trampolines and any other outdoor recreational equipment and appurtenances shall be allowed only at the rear or behind a dwelling and shall be located so as not to be visible from any public street, except for corner lots. Free-standing playhouses and tree houses must be approved by the ARC. All swimming pools must be approved by the ARC: no above ground swimming pools shall be allowed on any Lot. Not statues, water fountains, bird baths, flagpoles or furniture shall be placed or maintained on the front or side yards of any Lot. All outdoor furniture for any dwelling shall be kept and maintained only at the rear or behind a dwelling. Outside clothes lines and other facilities for drying or airing of clothes are prohibited. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or wall. Barbecue grills and other outdoor cooking equipment and apparatus shall be located only at the rear of a dwelling and should not be visible from any public street. Statues, water fountains, bird baths, bird feeders, wood carvings, plaques and other home crafts shall be allowed only at the rear of a dwelling and should not be visible from any public street. No rocks, rock walls, fencing or other substances shall be placed on any Lot as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. Seasonal or holiday decorations (e.g. Christmas trees and lights, pumpkins, Thanksgiving decorations) shall be promptly removed from any Lot or dwelling within thirty (30) days following such holiday.

3.32 No construction of piers, docks, boardwalks or other structure next on, onto or along the lake, if the lake is constructed, shall be allowed.

3.33 All mail boxes shall be uniform throughout the subdivision and is the responsibility of the owner to acquire and install such mail box. The Owner may contact the developer to obtain information on such mail box.

ARTICLE IV

EASEMENTS

4.01 Developer does hereby establish and reserve for itself, the Association, the ARC and their respective successors and assigns, a permanent and perpetual no-exclusive easement over, across, through and upon each Lot for the purpose of inspecting each Lot and any dwelling constructed thereon in order to determine the compliance with the provisions of these Protective Covenants and to otherwise perform any of their duties or undertake any of the action authorize or permitted to be taken by any of them pursuant to these Protective Covenants.

4.02 Developer does hereby establish and reserve for itself, its successors and assigns, a permanent and perpetual non-exclusive easement over, across, through, upon and under those portions of any Lot upon which Developer has reserved an easement, as reflected on the recorded Subdivision Plat for such Lot, which easement may be used for the purpose of installing, erecting, maintaining and using above and below ground utility and cable television lines, poles, wire, cables, conduits, storm sewers, sanitary sewers, conveniences, appurtenances and other utilities.

4.03 Developer does hereby establish and reserve for itself, its successors and assigns, a permanent and perpetual non-exclusive easement over, across, through, upon and under all portions of the Common Area for the purpose of installing, erecting, maintaining and using thereon above and below ground utility and cable television lines, pipes, poles, wires, cable, conduits, storm sewers, sanitary sewers, conveniences and other utilities.

4.04 Subject to any applicable rules and regulations adopted from time to time by the Association and the payment of any fees and charges which may from time to time be established by the Association, Developer does hereby grant to the Association an each Owner the non-exclusive right, privilege and easement of access to and the use of the Common Area in common with Developer, its successors and assigns.

4.05 **Common Areas.** The term "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas shall include (a) all private roadways or easements upon which private roadways providing ingress to and egress from the Development have been constructed within the boundaries of the Development, (b) all private roadways or easements upon which private roadways providing ingress to and egress from the Development have been constructed which may be adjacent to or in close proximity with (but otherwise outside of) the Development which provide ingress to or egress from any portion of the Development (other than any such private roadways which are located solely within the boundary lines of any Lot or Dwelling), (c) all signage, street lights, lighting, walkways, sidewalks, paths, bicycle and jogging paths and lanes, gates, walls, fences, guardhouses, improvements, landscaping and landscaped or other areas immediately adjacent to any public or private roadways, including all medians within any public or private roadways, whether the same are located within the Development or on any public roadways which may be adjacent or in close proximity with the Development

which provide ingress to and egress from any portion of the Development (other than any such areas located solely within the boundary lines of any Lot, Dwelling or Multi-Family Area), (d) all lakes, water features, storm drains and sewers, drainage and/or watershed protection or retention ponds, lakes, basins or other areas and facilities located within the Development (other than such areas located solely within the boundary lines of any Lot, Dwelling or Multi-Family Area), (e) all maintenance areas and parking areas located on any portion of the Development (other than such areas located solely within the boundary lines of any Lot, Dwelling or Multi-Family Area), (f) all utilities lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which are located in or serve any portion of the Common Areas and (g) all parks, nature trails, recreational facilities and areas and any other areas or improvements on or within the Development which are designated as Common Areas by Developer from time to time. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment or any other rights, licenses or benefits therein or to the use thereof. The above description in no way implies that the Developer, the Association or the ARC has any obligation to construct or provide any particular common areas or improvements.

4.06 Subject to the terms and conditions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board, Developer does hereby grant to each Owner and Occupant the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas in common with Developer, its successors and assigns, and all other Owners and Occupants. Unless otherwise provided in these covenants, the easement and rights granted pursuant to this Section are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot, Dwelling and Multi-Family Area, the easements and rights granted pursuant to this Section are expressly subject to the rights reserved by Developer to restrict access to the Development as provided in these covenants.

4.07 Subject to the terms and provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board, each Owner or Occupant shall have the nonexclusive right, privilege and easement of access to and the use and enjoyment of the recreational areas, facilities and amenities now or hereafter located in the Common Areas. The easement and rights granted herein are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot, Dwelling and Multi-Family Area.

4.08 **Benefit of Easements.** The easements, rights and privileges granted in 4.06 and 4.07 shall pass with each Lot, Dwelling and Multi-Family Area as an appurtenance thereto and may not be severed, transferred, assigned or otherwise alienated separate or apart from a Lot, Dwelling or Multi-Family Area.

4.09 **Reservation of General Access Easement.** Developer does hereby establish and reserve for itself, the ARC, the Association and their respective agents, employees,

representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon each Lot, Dwelling and Multi-Family Area for the purpose of providing ingress to and egress from each Lot, Dwelling, and Multi-Family Area for (a) inspecting each Lot, Dwelling and Multi-Family Area and any Improvements thereon in order to determine compliance with the provision of this Declaration and (b) the performance of the respective duties of Developer, the ARC and the Association hereunder, including, without limitation, taking any action required or permitted to be taken by Developer, the ARC and the Association pursuant to any of the terms or provisions of this Declaration provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Lot, Dwelling or Multi-Family Area directly affected thereby.

4.10 Reservation of Easement with Respect to Common Areas.

Developer does hereby establish and reserve, for itself, the ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all of the Common Areas for the purpose of (i) constructing Dwellings and other Improvements in and to any Lots, Dwellings and other Multi-Family Areas, (ii) installing, maintaining, repairing and replacing any other Improvements to the Property or to the Common Areas and (iii) doing all other things reasonably necessary and proper in connection therewith; provided, however, that in no event shall Developer have any obligation to undertake any of the foregoing. In addition to the other rights and easement established and reserved herein and regardless of whether Developer continues to own a Lot or Dwelling within the Development, Developer hereby establishes and reserves for itself and its successors and assigns, a permanent and perpetual, no exclusive easement to have access, ingress to and egress from and the right and privilege to use and enjoy the Common Areas and all Improvements thereon for such purposes as Developer deems appropriate; provided, however, that Developer should not exercise such rights so as to unreasonable interfere with the rights of the Owners to use the Common Areas.

4.12 Reservation of Easements for Signs, Walks, Trails, Walls and Fences.

Developer does hereby establish and reserve for itself and the Association and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across through and upon a strip of land ten (10) feet in width lying parallel to and running along the common boundary of the lake proposed for the Development for the purpose of constructing, installing, maintaining, repairing, operating, replacing and the use of sidewalks, walkways, trails, bicycle and jogging paths and lanes, traffic directional signs and related improvements; provided, however, that neither Developer nor the Association shall have any obligation to construct any of the foregoing improvements.

4.13 Reservation of Environmental Easement. Developer does hereby establish and reserve for itself, the ARC, the Association and their respective agents, employees,

successors and assigns, a permanent and perpetual right and easement on, over, across and upon all Lots and all unimproved portions of any Dwellings and Multi-Family Areas for the purpose of taking any action necessary to effect compliance with the Architectural Standards or any watershed, soil erosion or environmental rules, regulations and procedures from time to time promulgated or instituted by any Governmental Authorities or the Board. The easement and right established and reserved herein shall include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water and the right to take any other action which may be required in order to satisfy the requirements of the Architectural Standards or any Governmental Authorities. Except in the case of an emergency situation or perceived emergency situation, the exercise by Developer or the Association of the rights reserved in this Section shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot or Multi-Family Area.

4.14 Easement for the use of lake proposed for development. Developer proposes, but has not committed to, construction of a lake for the sole purpose of fishing, and for no other purpose. The lake, if constructed, will be a common area and Developer does hereby establish and reserve for itself and the Association and their respective successors and assigns, a permanent and perpetual easement for fishing the lake; provided, however, that fishing will only be allowed from certain designated areas, except that those Association members owning homes on the lake may fish from their own yards; provided, further, that neither developer nor the Association shall have any obligation to construct any lake and reserve the right not to do so.

4.15 All lots fronting the lake are specifically and expressly subject to the above easement for the jogging path around the lake and will do nothing to interfere with the proper use thereof by the Association, the members, the ARC and the Developer.

4.16 Boating, swimming and any other activity on the lake other than fishing from the shore are and shall be expressly prohibited.

4.17 It is expressly provided and understood that neither the Developer, nor the Association shall be bound or required to construct the lake or jogging path around it, and they reserve the right not to construct either.

4.18 NEITHER THE ARC NOR THE DEVELOPER NOR THE ASSOCIATION SHALL BE RESPONSIBLE FOR ANY INJURY OR DAMAGE RESULTING FROM THEIR CONSTRUCTION, OPERATION, CONTROL, MAINTENANCE OR OTHER ACT OR OMISSION RELATED TO ANY COMMON AREAS, INCLUDING THE LAKE AND THE JOGGING TRAIL. EACH OWNER, BY ACCEPTANCE OF A DEED TO ANY LOT, DOES HEREBY ASSUME ALL RISK AND RESPONSIBILITY FOR SUCH INJURY AND DAMAGE, AND DOES HEREBY WAIVE ALL RIGHTS AND CLAIMS AND

RELEASE THE ARC, THE DEVELOPER AND THE ASSOCIATION AND ANY OF THEIR RESPECTIVE AGENTS, OFFICERS, DIRECTORS, MEMBERS AND SUCCESSORS AND ASSIGNS FROM ANY LIABILITY OF ANY NATURE WHATSOEVER ARISING FROM DAMAGE, INJURY, LOSS OR EXPENSE SUFFERED, CLAIMED, PAID OR INCURRED BY ANY OWNER OR OWNER'S FAMILY, GUESTS, LICENSEES OR INVITEES ON ACCOUNT OF ANY CONSTRUCTION, OPERATION, CONTROL, MAINTENANCE OR OTHER ACT OR OMISSION RELATED TO ANY COMMON AREA, INCLUDING DEATH OR INJURY.

4.19 Compliance with Governmental Regulations. Each Owner and Occupant shall at all times comply with all applicable laws, ordinance, statutes, rules, regulations, requirements and code provisions of all Governmental Agencies.

4.20 THE OWNER AND OCCUPANT OF ANY LOT, DWELLING AND MULTI-FAMILY AREA SITUATED ADJACENT TO ANY OF THE LAKES, WATER FEATURES OR PARKS, TOGETHER WITH THEIR RESPECTIVE FAMILY MEMBERS, GUESTS, AGENTS, LICENSEES AND INVITEES, DO BY ACCEPTANCE OF A DEED TO SUCH LOT, DWELLING OR MULTI-FAMILY AREA ON THEIR ENTRANCE ONTO SUCH LOT, DWELLING OR MULTI-FAMILY AREA, HEREBY WAIVE AND RELEASE DEVELOPER, THE ARC, THE BOARD AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS AND PARTNERS, FROM ANY AND ALL LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH ANY DAMAGE OR INJURY (INCLUDING DEATH) TO PERSON OR PROPERTY CAUSED BY PROXIMITY TO, USE OF OR ANY MAINTENANCE OR SUPERVISORY ACT OR OMISSION WITH REGARD TO SAID LAKES, WATER FEATURES OR PARKS.

4.21 Hazardous Materials. No products that are listed on any current stipulated hazardous or toxic materials list of the Environmental Protection Agency, or the Alabama Department of Environmental Management or any other Governmental Agency shall be stored or used on any Lot, except that gasoline and other petroleum products, pesticides and fertilizers may be stored and used on a Lot for the purpose of normal and routine maintenance of grounds and the normal routine construction, repair, maintenance and operation of Dwelling and other Improvements located on a Lot, including construction materials which are stored and/or used during construction. If, in the opinion of the Board, such products or items are not stored or used in quantities or in a manner which are likely to endanger the Lake. Notwithstanding the forgoing, no pesticides or other toxic, hazardous or harmful chemicals shall be used whatsoever within 50 feet of the lake. Any such chemicals used or applied more than 50 feet from the Lake shall be so used and applied to prevent their spread or dissemination into the Lake.

4.22 Agreements. Subject to the conditions, restrictions and other provisions of this Declaration, all agreements, actions and determinations lawfully authorized by the

Board shall be binding upon Owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the Development. In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to such persons of its choice such duties of the Association as may be determined by the Boards. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of any portion of the Development, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. All costs and expenses incurred incident to the employment of a manager of the Development or any of the Common Areas shall be a Common Expense. During the term of any such management agreement entered into by the Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of all of the duties of the Association, excepting any of such powers or duties specifically and exclusively reserved to the Board or the duties specifically and exclusively reserved to the Board or the officers of the Association by the Declaration, the Articles of Incorporation or the Bylaws. Such manager may be an individual, corporation or other legal entity and may be bonded in such manner as the Board may require, with the costs of such bond to be a Common Expense. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal and accounting services as are necessary or desirable in connection with the operation of the Development, or the enforcement of this Declaration, the Articles or Incorporation, the Bylaws or any rules and regulations of the Association.

4.23 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, including the Developer, harmless from and against any and all expenses, including court cost 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 proceedings (including the settlement of any suit or proceedings if approved by the Board) to which such person may be made a party by reason of being or having been an officer, agent, representative or member of the Board of the Association. The officers, agents, representatives and members 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 and the Association shall and does hereby indemnify, defend and agree to forever hold each such officer, agent, representative and member of the Board harmless from any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any officer, agent, representative or member of the Board of the Association may be entitled, including

anything provided to the contrary contained in the Articles of Incorporation or the Bylaws. The Association shall maintain adequate general liability and officers and directors liability insurance in order to fulfill its obligations under this section and the costs of such insurance shall constitute a Common Expense.

4.24 Liability for Violation Restrictions. In the event these covenants that an Owner or Occupant of a Lot or Dwelling violates any of the restrictions and limitations set forth and such violation causes damage to the Lake or the fishing conditions thereof, such Owner shall be liable to the Association for the cost of curing the damage to the Lake caused by such violation which may include, without limitation, the cost of draining and restocking the Lake if recommended by a professional consultant. In the event that any such violation causes personal injury to any person or to the property of any person, the Owner shall indemnify and hold the Association and/or the Developer and their respective directors, officers, employees, successors and assigns, harmless from and against any liability they may have to such person.

4.25 Any person by his use of the Lake pursuant to the easement granted hereunder or otherwise, shall be deemed to have constructively agreed that the Developer and/or the Association shall have its duty of care to keep the Lake safe for entry and use by such persons, or to give any warning of hazardous conditions, use of structures or activities on or about the Lake and the Developer and the Association and their respective agents, employees, officers and directors and their respective successors and assigns shall have no liability for any injury to persons or property caused by any act or omission of Developer or the Association or any other person relating to or arising out of the use of the Lake by any person.

ARTICLE V

WYNLAKE RESIDENTIAL ASSOCIATION, INC.

5.01 Every Owner of a Lot in the Development is subject to assessments, as hereinafter provided, and shall be a member of the Association (the Articles of Incorporation for which are recorded in Instrument # 1995-30873 in the Probate Office of Shelby County, Alabama). Membership shall be appurtenant to and not be separated from ownership of any Lot and shall be subject to the provisions of these Protective Covenants and the rules, regulations and bylaws of the Association, as the same may be modified and amended from time to time.

5.02 The Association shall have one (1) class of voting membership. The members of the Association shall be Owners and, subject to the rights reserved by Developer in the Articles of Incorporation and Bylaws of the Association, shall be entitled to one (1) vote

for each Lot owned. When more than one (1) person holds an interest in any Lot, all persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Each Owner, by acceptance of a deed to a Lot, does hereby acknowledge and agree that (a) Developer, for so long as Developer owns any Lot in the Development, shall be exclusively entitled to take the various actions and vote on all matters to be voted on by the members of the Association and (b) if Developer elects to add Additional Property to this Declaration or as part of the Association, Owner consents and agrees to the dilution of his voting interests in the Association as result thereof.

5.03 The Association (with the prior written consent of Developer for so long as Developer owns any Lot in the Development) shall have the right at any time and from any time to time merge, consolidate or otherwise transfer all of the rights and obligations of the Association to any other association which has been formed for the benefit of the Owners of any of the Lots within the Development of any other real properties situated adjacent to or in close proximity with the development.

ARTICLE VI

COVENANT FOR ASSESSMENTS

6.01 Each Owner of a Lot within the Development, by acceptance of a deed to such Lot, agrees to pay to the Association: (i) annual assessments or charges levied each year by the Association, (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided and (iii) individual assessments which may be levied against any Lot and the Owner thereof as a result of such Owner's failure to comply with the terms of these Protective Covenants. Lots owned by the Developer shall not be subject to any assessment by the Association, be it annual, special or individual assessments. The annual, special and individual assessments, together with interest, late charges, cost and reasonable attorneys' fees, shall also be a charge on each Lot and shall be a continuing lien upon each Lot against which such assessment is made, which lien may be enforced in the manner hereinafter provided. Each such assessment, together with interest, late charges, cost and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due or was due.

6.02 The annual and special assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents in the Development and for the improvement and maintenance of the Common Area within the Development.

6.03 Any expenses incurred by the ARC or the Association in enforcing any of the provisions of these Protective Covenants against any specific Owner shall be deemed an

individual assessment against such Owner and the respective Lot owned by such Owner. Such individual assessment shall be levied by the Association and shall be specified in a notice to the Owner, which notice shall also specify the due date for payment of the same. The Association is solely responsible for and shall assume all maintenance responsibilities with respect to all Common Area within the Development.

6.04 The annual assessment for the Development shall commence on January 1 of each year, and shall be paid in advance. The annual assessment shall be established by the Association in accordance with its rules, regulations and bylaws. Lots owned by the Developer shall not be subject to any assessment by the Association, be it annual, special or individual assessments.

6.05 In addition to the annual assessments, the Association may levy, in any assessment year, a special assessment, applicable to the year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, provided that any such assessment must have the assent and approval of (a) at least fifty-one percent (51%) of the Owners who are voting in person or by proxy at a meeting duly called for this purpose and (b) to the extent Developer is the Owner of any Lot in the Development, the approval of Developer.

6.06 Written notice of any meeting called for the purpose of taking any action authorized under Section 6.05 above shall be sent to all Owners not less than thirty (30) days but no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners, either in person or by proxy, entitled to cast fifty-one percent (51%) or more of all votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

6.07 Both annual and special assessment must be fixed at a uniform rate for all Lots, shall commence as to each Lot on the day on which such Lot is conveyed to any Owner (other than Developer) and shall be due and payable in such manner as established by the Board of Directors of the Association. The board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The due date for the payment of annual assessments shall be established by the Board of Directors in such notice (but such date shall be, at a minimum, thirty (30) days from the date of such notice).

6.08 The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a Lot has been paid. A properly executed certification of the Association as the status of the assessment on a Lot is binding upon the Association as of the date of its issuance.

6.09 Any assessments (whether annual, special or individual) which are not paid on or before the due date of the same shall bear interest from and after such due date at a rate equal to the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to such Owner by law. In addition to interest, any assessments not paid by the due date for the same shall be subject to a late charge which the Board of Directors of the Association may from time to time establish. In the event any assessments or other amounts due to the Association are not paid by any Owner when the same comes due, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board of Directors or through any of its duly authorized officers or representatives, may undertake any of the following remedies.

- (a) The Association may commence and maintain a suit at law against the Owner for a personal money judgment to enforce all such charges and obligations for assessments and other amounts due to the Association, which amount shall include the late charge and interest specified above as well as all attorneys' fees, court cost and all other costs and expenses paid for incurred by the Association in connection therewith; and/or
- (b) The Association may enforce the lien created pursuant to Section 6.01 above as hereinafter provided. The lien created pursuant to Section 5.01 above shall secure the payment of any and all assessments (annual, special and individual) levied against any Lot or Owner, all late charges and interest as provided above as well as all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect the assessments and in maintaining any legal action in connection therewith. If any Assessments and other charges remain unpaid for more than sixty (60) days following the due date of the same, then the Association shall make written demand on the defaulting Owner, which demand shall state the date and amount of delinquency. If such delinquency is not paid in full within ten (10) days after the giving of such demand notice, then the Association may file a claim of lien against the Lot of such delinquent owner, which claim shall be executed by any member of the Board of Directors of the Association or any officer of the Association and shall be filed for record in the Probate Office of Shelby County, Alabama. The lien provided for herein shall be in favor of the Association and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot purchased at any such foreclosure proceeding. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (i) grant

and vest in the Association and/or its agents the right and power of sale to exercise the power granted herein and foreclose the lien created herein, (ii) grant and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (iii) expressly waive any objection to the enforcement in foreclosure of the lien created herein and (iv) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any suit or action for foreclosure. No Owner (other than Developer) may waive or otherwise be exempt from the liability to pay the assessments provided herein.

6.10 The lien for assessments and other charges provided for herein with respect to any Lot shall be subordinate to the lien of any first mortgage encumbering such Lot. The sale or transfer of any Lot shall not affect any lien retained by the Association on a Lot; provided, however, that the sale or transfer of any Lot pursuant to mortgage foreclosure or any similar proceedings shall extinguish the lien of such assessment as to payments which become due more than six (6) months prior to such sale or transfer.

6.11 In addition to the rights and remedies set forth above, if any Owner (or his contractor, family members, guests or invitees) shall violate or attempt to violate any of the covenants and restrictions set forth herein, then Developer, the Association or the ARC, jointly and severally, shall each have the right to prosecute proceedings at law for the recovery of damages against such Owner as a result of such violations or maintain a proceeding in equity against such Owner to enjoin such violation; provided, however, that the rights and remedies set forth herein shall be deemed to be cumulative of all other rights and remedies available at law or in equity. In any such proceedings, Developer, the Association or the ARC, jointly and severally, shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred by any of them in such proceedings, as well as interest on all unpaid amounts as specified in Section 6.09 above. The failure of Developer, the Association or the ARC to institute proceedings for any one (1) or more violations of these Protective Covenants shall not constitute approval of the same to be construed as a waiver of any right of action contained herein for past or future violations of said covenants and restrictions.

ARTICLE VII

MISCELLANEOUS

7.01 Developer reserves the right, in its sole and absolute discretion, at any time and from time to time to add and submit any additional property (the "Additional Property") situated adjacent to or in close proximity with the Development to the terms and provisions of these Protective Covenants. Additional Property may be submitted to the provisions of these Protective Covenants by and instrument executed solely by

Developer and filed for record in the Probate Office of Shelby County, Alabama, which instrument shall be deemed an amendment to these Protective Covenants which need not be consented to or approved by any Owner or his mortgagee and which may contain different terms, conditions, restrictions and provisions from those set forth herein. From and after the date on which amendment to these Protective Covenants is recorded in the Probate Office of Shelby County, Alabama submitting and Additional Property to the terms and provisions hereof, (a) all references herein to Owner shall include the Owners of all Lots within the Development and the Owners of all Lots within such Additional Property, (b) all references herein to the Development shall include the Additional Property and (c) the number of votes in the Association shall be increased by the number of Lots within the Additional Property so that there shall continue to be one vote in the Association per Lot within the Development. In no event shall Developer be obligated to submit any Additional Property to the provisions of these Protective Covenants or to otherwise impose any covenants, conditions or restrictions set forth herein upon any other property owned by Developer situated adjacent to or in close proximity with the Developer.

7.02 The Developer may at any time or from time to time withdraw portions of the Property from this Declaration, provided only that the withdrawal of such portions of the Property shall not, without the joinder or consent of the Owners of Lots constituting over one-half of the existing acreage of the Property, increase by more than one-fourth (1/4) the share of Association expenses payable by the Owners of Lots which would remain subject hereto after such withdrawal. The withdrawal of Property as aforesaid shall be evidenced by filing in the Office of the Judge of Probate of Shelby County, Alabama, a Supplementary Declaration setting forth the portions of the Property to be so withdrawn.

7.03 The terms and provisions of these Protective Covenants shall be binding upon each Owner and the respective heirs, executors, administrators, personal representatives, successors and assigns of each Owner and shall enure to the benefit of Developer, the ARC, the Association and all of the Owners and any of the Lots within the Development. These Protective Covenants shall be deemed covenants running with the land and any Lot in the Common Area shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to all the terms and provisions of these Protective Covenants.

7.04 It is understood and agreed that the foregoing covenants and restrictions shall attach to and run with the land for a period of fifty (50) years from the date hereof, at which time these covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless, by a vote of at least fifty-one percent (51%) of the then Owners of the Lots, it is agreed to change the same in whole or part.

7.05 These covenants and restrictions may be amended or altered (a) solely by the Developer during such periods of time as the Developer owns any Lots in the Development, so long as such amendment does not materially and adversely affect or alter

any Owner's right to use his Lot or (b) by the consent of a majority vote of Lot Owners (including Developer who shall have the voting rights attributable to the Lots owned by the Developer) and the written agreement of the Developer.

7.06 All personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and vice versa.

7.07 Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Development.

7.08 Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any Lot by Developer to any third party shall constitute or be deemed a transfer of any of the rights reserved herein to Developer unless express reference is made in such instrument of conveyance to the specific rights created in these Protective Covenants which Developer is transferring to such third party.

7.09 Whenever in these Protective Covenants, Developer, the Association or the ARC has the right to approve, consent to or require any action to be taken, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of Developer, the Association or the ARC, as the case may be.

7.10 **Agreement to Arbitrate all Disputes.** Any and all disputes, disagreements, claims, charges, complaints or other controversy of any kind between an owner and the Developer, the Association, the ARC or any officers, agents, representatives, members and successors and assigns, arising out of or relating to any obligations or dealings between them connected to these covenants, including but not limited to negotiations, communications, representations, disclosures or failures to disclose, contracts, sub-contracts, agreements, warranties, acts, omissions, workmanship, services rendered, materials supplied, and any other obligation or dealing of any kind, before, during or after the date of these covenants, shall be submitted to binding Arbitration at the instance of either party under the arbitration rules of the American Arbitration Association then in effect. The Arbitration will be conducted in Birmingham, Alabama. The law of the State of Alabama shall apply in all Arbitration proceedings. The Arbitration shall be binding upon the parties and judgement upon the award rendered by Arbitration may be entered in any court having jurisdiction thereof. The Owner, Developer, Association and ARC agree these covenants and all their communications, negotiations, acts, omissions and dealings of any kind involved and concern the construction and maintenance of a residential subdivision and related dealings substantially involve, affect and contemplate substantial interstate commerce, and this is a contract of arbitration under 9 U.S.C. 1, et seq. The building supplies and materials and possibly labor used in performing the construction and maintenance work will come from outside the State of Alabama, passing in interstate

commerce. The parties joining in these covenants acknowledge the mutual benefit of the Arbitration Agreement and desire to have this Arbitration Agreement enforced and abide by all of its terms.

IN WITNESS WHEREOF, Developer has executed this instrument on the 27th
day of October, 1995.

DEVELOPER
METROPOLITAN HOMES, INC.

BY: Amir H. Ashtarani
Amir H. Ashtarani
Its President

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County and for said State, hereby certify that Amir H. Ashtarani, whose name as President of Metropolitan Homes, Inc., a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyances, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this the 27th day of October, 1995.

Jacqueline Wilder
NOTARY PUBLIC

My Commission Expires: Sept 13, 1999

EXHIBIT "A"

Lots 1 through 15, Phase I Wynlake Subdivision, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 19, Page 156.

Lots 16 through 45, Phase II Wynlake Subdivision, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 20, Page 12.

Inst # 1995-30874

**10/27/1995-30874
10:02 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
026 MCD 71.00**