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**DECLARATION OF PROTECTIVE  
COVENANTS FOR OAKBROOKE A  
RESIDENTIAL SUBDIVISION**

**WHEREAS**, the undersigned, Forty Three Investments, LLC., an Alabama limited liability company (which, together with its successors and assigns, is hereinafter referred to as "Developer") is the owner of all of 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 "Property") and whereas the Developer is desirous of developing a residential subdivision on said Property known as Oakbrooke (or the "Development") and further subject the Development to certain Protective covenants. For the purpose of these protective Covenants (the "Covenants"), the terms "lot" or "lots" and any parcel of land subdivided within the meaning of these Covenants means all lots currently located within the Property and all lots which may be included under these Protective Covenants in the future by the Developer.

**WHEREAS**, the Developer desires to subject all of the real property located within the Subdivision Plat and each Lot located thereon to the easements, covenants, conditions, assessments, limitations and restrictions hereinafter set forth.

**NOW THEREFORE**, Developer does hereby expressly adopt the covenants and limitations for the Subdivision Plat as set forth in these Protective Covenants and does hereby declare that the real property shown on "Exhibit B" and each Lot located therein and any Lots that may be included in any future development property shall be subject to the following easements, covenants, conditions, assessments, limitations and restrictions.

**ARTICLE I  
DEFINITIONS**

Section 1. "Architectural Committee" shall mean the committee created pursuant to Article V hereof.

Section 2. "Architectural Committee Rules" shall mean the rules, if any, adopted by the Architectural Committee.

Section 3. "Declaration" shall mean this entire document, as same may from time to time be amended.

Section 4. "Developer" shall mean Forty Three Investments, LLC., an Alabama Limited Liability Company.

Section 5. "Living Area" shall mean as heated finished area, not to include porches, garages, basements, carports, or attics.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of fee simple title to any Lot. "Owner" shall include the Developer until such time as Developer has sold all Lots owned by it. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. "Owner" shall also include the family, invitees, licensees and lessees of the Owner, together with any other person or parties holding any possessory interest granted by such Owner in any Lot. There shall be one vote for each Lot in the Property notwithstanding that a particular Lot is owned by more than one person.

Section 7. "Property" or "Project" shall mean and refer to all the Lots within Oakbrooke and all easements as reflected on the Subdivision Plat.

Section 8. "Protective Covenants" shall mean all of those covenants, conditions and restrictions contained in this entire Declaration.

Section 9. "Purchaser" shall mean any person who acquires any Lot.

## **ARTICLE II EXCLUSIVE OWNERSHIP**

Section 1. Exclusive Ownership. Each owner shall have exclusive ownership and possession of his or her or their Lot.

## **ARTICLE III PROPERTY SUBJECT TO RESTRICTIONS**

Section 1. General Declaration. The Developer intends to sell and convey the Lots to Purchasers, subject to this Declaration and any subsequent amendment or supplement thereto. The Developer hereby declares that all of the Property is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration as amended or supplemented from time to time. This Declaration is declared to be established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all parts thereof. All of the provisions of this Declaration shall run with the Property for all purposes and shall be binding upon and inure to the benefit of the Developer, all Owners, and their respective heirs, successors, and assigns.

#### **ARTICLE IV ARCHITECTURAL CONTROL**

**Section 1. Architectural Committee Membership.** The Architectural Committee shall consist of two (2) members and the initial members shall be appointed by the Developer. In the event of death, resignation or other termination of any members, the Developer during the development stage (until all lots are sold by the developer) shall have full authority to appoint successor members. The Developer's appointed members shall serve until all lots are sold by the Developer whereupon, the Developer's control and authority and Developer's appointed members to the Architectural Committee shall cease and the Homeowners assume full control and authority over the Architectural Committee and may form an Association for such purpose. If the Developer, in its sole discretion, elects to relinquish this control before the sale of all the lots of the development, it shall have the authority to turn over developer's rights to the Homeowners.

**Section 2. Release.** Neither the Architectural Committee nor any member thereof shall be liable to any Owner or to any other party for any damage, loss or prejudice suffered on account of the approval or disapproval of any plans, drawings or specifications, whether or not defective, or the execution or filing of any action, motion, certificate, petition or protest in the courts of the United States or the State of Alabama, or with any other governmental board or body, whether or not the facts stated therein are true and correct.

**Section 3. Members.** The three (2) members of the Architectural Committee appointed by the Developer are as follows: Randy Goggins and BJ Davis. The Architectural Committee shall serve without compensation for their routine, review and approval services.

#### **ARTICLE V RESTRICTIONS**

**Section I. Use Restrictions.** The Property will be used for residential purposes only except that a home business with a minimum of employees along with delivery services to that business is acceptable. No building or structure other than a single-family residence and a detached barn shall be erected on any Lot within the Property except as otherwise permitted herein. Detached guest houses or in-law suites on any lot will be permitted contingent on Architectural Committee approval. Site location of any said structure shall be approved by the ARC

Prohibited uses include, but are not limited to:

(a) dangerous, noxious, offensive or excessively noisome activities which may be or become an annoyance or nuisance to Owners;

(b) Owner shall be permitted to keep dogs, cats, or other household or domestic pets so long as they are not kept, bred or maintained for any business or commercial use and they are not allowed by the Owner to become an annoyance or nuisance to other Owners; provided, however, that one (1) grazing animal (such as a horse, cow or goat) per two (2) acres will be allowed and eight (8) chickens per Lot will be allowed. No roosters shall be allowed at any time;

(c) exploring, mining, boring, quarrying, drilling, or otherwise removing oil or other hydrocarbons, minerals, gravel or natural gas; provided that timber harvesting and logging shall be permissible, provided that the lot owner shall be responsible for any road damage caused by such activity;



- (d) use of a single-family residence by more than a single family unit;
- (e) any homeowner desirous or intending to install a fence on their lot whereby the fence in whole or in part is visible from Highway 467 or any property line within development must have prior approval by the Architectural Committee before installing said fence. Fence materials must be approved by Architectural Committee.
- (f) no mobile or manufactured homes shall be allowed;

Any owner may request from the Architectural Committee at any time a determination of whether a prospective use of a Lot is permitted. A certificate to that effect signed by a majority of the Architectural Committee shall be deemed to be dispositive of this issue.

## **Section 2. Limitation on Size and Location of Structure.**

No structure shall be erected, altered, placed or permitted to remain on any lot other than a Single-Family Residence not to exceed two and one half stories and a private garage for not more than four cars. Other than the reference to a barn in Section 1 above, no detached building other than the Single-Family Residence shall be constructed or permitted on any Lot unless previously approved by the Architectural Committee. The Single-Family Residence shall be located on each Lot in conformity with the setback requirements. No residence or other improvement on any Lot may be constructed within any easement area shown on the Subdivision Record Map. Additionally, all Lots are subject to local zoning ordinances and buildings and improvements must adhere to said requirements unless waived or varied in writing by appropriate authorities.

(a) Minimum floor areas for homes in Oakbrooke is as follows:

- (1) 2,100 square feet living area for a one story residence and 2,500 square feet. for a one and one-half story residence;
- (2) Two or more adjacent lots may be used to construct a Single-Family Residence; and,
- (3) The Developers shall have the right to allow variances on minimum square footage for residences that are not visible from any roadway.

**Section 3. Maintenance.** All Single-Family Residences, landscaping and other improvements upon individual Lots shall be continuously maintained by the Owner thereof so as to preserve a well-kept appearance, especially along the perimeters of any Lot.

**Section 4. Storage of Boats, Trailers and Other Vehicles.** No boats, or trailers may be parked or stored in any location that can be seen from the road for a period in excess of 48 hours, provided boats, recreational vehicles and the like may be stored indefinitely if they are stored in such a manner that they are incapable of being seen by another lot or home site. No service trucks, service vans, service vehicles, wrecked or disabled vehicles shall be stored or located on any Lot in the subdivision.

**Section 5. Enforcement.** If a determination is made by the Architectural Committee or Homeowners Association that any of the restrictions in this Article VI are being or have been violated upon any Lot, then the Architectural Committee or Homeowners Association shall so notify the Owner in

writing, specifying the violation. If within thirty (30) days from such notification, the Architectural Committee shall make a second determination that sufficient progress has not been made to remedy the violation, the Architectural Committee may itself, direct such actions to be taken as shall be necessary or appropriate to remedy such violation. The Owner shall be liable for the cost and expense of all such actions, including legal fees, and the Architectural Committee may treat all such costs and expenses therefore as a charge which shall become a lien of the Architectural Committee on the affected Lot enforceable by appropriate proceedings at law or in equity.

Section 6. Any lot may be subdivided, provided that each lot that is subdivided must be at least twenty (20) acres. Remaining lot after subdividing shall be minimum of twenty (20) acres.

Section 7. Lot 4, shall be exempt from the following restrictions:

- a. Article V, Section II, (a) Item (1) pertaining to minimum living space square footage.
- b. Article V, Section 1, Item (e) pertaining to fencing requirements.
- c. Article V, any limitations on the number of structures that are permitted on the property.

Section 8. Lot 4, shall have 2 votes pertaining to any HOA matters.

**ARTICLE VI  
NATURE OF PROTECTIVE COVENANTS:**

**DEFAULTS AND REMEDIES**

Section 1. Protective Covenants Running with the Land. The foregoing Protective Covenants shall constitute a servitude in and upon the Property and shall run with such Property and inure to the benefit of and be enforceable by the Developer, its designated successors and assigns, or by any Owner and his respective heirs, successors and assigns for a term of fifty (50) years from the date this Declaration is recorded, after which time the said Protective Covenants shall automatically be extended for successive period of ten (10) years, unless an agreement which has been signed by Owners who own two-thirds (2/3) or more of the then existing Lots of the Property, agreeing to terminate or modify this Declaration, has been recorded in the Probate Court of Shelby County, Alabama.

Section 2. Remedies for Default. The existence of any default hereunder by any person or entity subject to the terms, conditions, covenants and restrictions of this Declaration shall give the Developer, its successors or assigns, any Owner, and/or their respective heirs, successors and assigns, in addition to all other remedies specified herein, the right to proceed at law or in equity to compel compliance with the terms of these Protective Covenants and to prevent the violation or breach of any of them.

Section 3. Nature of Remedies, Waiver All rights, remedies and privileges granted to the Developer and the Owners, their respective heirs, successors and assigns, pursuant to the provisions of this Declaration shall be deemed to be cumulative, and the exercise of any one or more of them shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure at any point in time to enforce any covenant or restriction shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

Section 4. No Reverter. No restriction or provision herein is intended to be, or shall be construed as, a condition subsequent or as creating any possibility of a reverter.

**ARTICLE VII  
PERIOD OF DEVELOPER CONTROL**

Section 1. Period of Developer Control. In view of the Developers investment, commitment and obligations in and to the Oakbrooke, the Developer hereby reserves unto itself, its successors and assigns, the right to manage all of the affairs of the subdivision and development thereof in accordance herewith and any amendments hereto, and also the exclusive right to amend these Protective Covenants until the Developer sells one hundred percent (100%) of the lots within the subdivision or until the developer elects to terminate its control of the project whichever shall first occur. This period of time shall be known as the "Control Period". (Lot 4 Exempt) \*

Section 2. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed by United States mail, postage prepaid, return receipt requested, to the street address of the Lot owned by such Owner, or such other address as the Owner may have furnished Developer.



Section 3. Severability. Invalidation of any provision or provisions hereof by judgment or court order shall in no way affect any previous other provision, all of which shall remain in full force effect.

Section 4. Effective Date. This Declaration shall become effective upon its recordation in the Probate Court of Shelby County, Alabama.

Section 5. Amendment by Owners. Subsequent to the "Control Period" heretofore referred to in Article VIII, an amendment may be proposed by written instrument signed by the Owners of not less than one-fourth (1/4) of the Lots within the Property. Such proposed amendment or amendments shall be considered at a meeting of the Owners after written or printed notice of such meeting stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, shall be mailed to the Owners not less than ten (10) days nor more than fifty (50) days, before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to each Owner at the street address of his Lot, the postage thereon being prepaid. Any Owner may, by written waiver of notice signed by such Owner, waive such notice, and such waiver whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such Owner. At such meeting, the amendment or amendments proposed must be approved by majority vote in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the Architectural Committee as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Probate Court of Shelby County, Alabama, within twenty (20) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording identifying this Declaration. Thereafter, a copy of said amendment or amendments, in the form in which the same were placed of record, shall be delivered to all of the Owners, but mailing or delivering a copy thereof shall not be condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any Owner shall be recognized if such Owner is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered at or prior to such meeting.

This the 6<sup>th</sup> day of January, 2023

Forty Three Investments, LLC.

Randall H. Goggans Its Member

Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
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**ACKNOWLEDGEMENT:**

**STATE OF ALABAMA  
COUNTY OF SHELBY**

Sworn to and subscribed before me this 6<sup>th</sup> day of January, 2023, by Randall H. Goggans, member of Forty Three Investments, LLC

Notary Public

