

October 16, 2023

**AMENDMENT THREE OCTOBER 16, 2023
AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS**

**FOR
CYPRESS GATES,
A SUBDIVISION**

BALDWIN COUNTY, ALABAMA
HARRY D'OLIVE, JR. PROBATE JUDGE
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KNOW ALL MEN BY THESE PRESENTS: That this Amended and Restated Declaration of Covenants and Restrictions, entered this 28TH day of November, 2023, is made and entered into by and members of the **Cypress Gates Property Owners Association, INC.**, an Alabama Not-for-Profit Corporation, hereinafter referred to as the Lot Owners.

WITNESSETH

WHEREAS, the Lot Owners are all of the owners of certain real property consisting of the various Lots located in the Cypress Gates Subdivision in Baldwin County, Alabama,

NOW, THEREFORE, the Lot Owners hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and the desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each lot owner thereof.

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**ARTICLE I.
DEFINITIONS**

1. "ARCHITECTURAL REVIEW COMMITTEE"

Currently reads: "ARCHITECTURAL REVIEW COMMITTEE OR "A.R.C." means that certain committee originally appointed by the Declarant but will be elected by the Members once the Association is turned over to the Members that has the right and authority to approve any and all architectural and landscaping plans prior to any Lot Owner constructing a Dwelling or any other or any other structure on a Lot and further prior to any Lot Owner install any landscaping on a Lot.

Will be amended to read: "ARCHITECTURAL REVIEW COMMITTEE (ARC)" means a group of the Association's Members that are elected by the Lot Owners that has the right and authority to approve any and all architectural and landscaping plans prior to any Lot Owner constructing or modifying a Dwelling or other structure on a Lot and further prior to any Lot Owner installing or modifying any landscaping, flagpole, gazebo, pergola, canopy, pools or spas, and yard or lawn decoration or ornament on a Lot.

2. "ARTICLES"

Currently reads: "ARTICLES" MEANS THE Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Baldwin County, Alabama, and the Alabama Secretary of State's office in Montgomery, AL.

Will be amended to read: "ARTICLES" MEANS THE Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Baldwin County, Alabama, and is also recorded with the Alabama Secretary of State's Office in Montgomery, AL.

3. "ASSESSMENT"

Currently reads: "ASSESSMENT" means proportionate share (or share derived by formula) of the funds required for the maintenance of the Common Areas which from time to time may be levied against each Lot Owner.

No change.

4. "ASSOCIATION"

Currently reads: "ASSOCIATION" means Cypress Gates Owners Association, Inc., an Alabama not for profit corporation, and its successors, which is organized under 10-3A-1, et seq. Code of Alabama (1975).

Will be amended to read: "ASSOCIATION" means Cypress Gates Property Owners Association, Inc., an Alabama not-for-profit corporation, and its successors, which is organized under 10A-3-1, et seq. Code of Alabama (1975).

5. "BOARD"

Currently reads: "BOARD" means the Board of Directors of the Association.

No change.

6. "BY-LAWS"

Currently reads: "BY-LAWS" means the duly adopted By-Laws of the Association.

No change.

7. "COMMON AREAS"

Currently reads: "COMMON AREAS" means all portions of the Subdivision other than the Lots and are owned by the Association.

No change.

8. "COMMON EXPENSES"

Currently reads: "COMMON EXPENSES" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

No change.

9. "COMMON SURPLUS"

Currently reads: "COMMON SURPLUS" means the excess of all receipts of the Association arising out of the Common Areas over the amount of the Common Expenses.

No change.

10. "DECLARATION"

Currently reads: "DECLARATION" means this Declaration of Protective Covenants and any amendments thereto which may be made from time to time.

No change.

11. "DEVELOPER" OR "DECLARANT"

Currently reads: "DEVELOPER" OR "DECLARANT" means CYPRESS GATES, L.L.C., a limited liability company authorized to do business in the state of Alabama, represented herein by its duly authorized member Clifton D. Guidry (called "Developer").

Will be amended to read: "DECLARANT" means the Lot Owners of Cypress Gates.

12. "DEVELOPMENT"

Currently reads: "DEVELOPMENT" shall mean Cypress Gates, a subdivision, created by recording the plat therefore in the Office of the Judge of Probate in Baldwin County, Alabama.

No change.

13. "DWELLING"

Currently reads: "DWELLING" means any house or residence constructed on a Lot in the Subdivision.

No change.

14. "LOT"

Currently reads: "LOT" means any individual parcel of real property that has been created by recording the plat for Cypress Gates, a subdivision, in the Office of the Judge of Probate of Baldwin County, Alabama.

No change.

15. "LOT OWNER"

Currently reads: "LOT OWNER" means any individual who owns a Lot in the Subdivision.

No change.

16. "MEMBER"

Currently reads: "MEMBER" means a member of the Association, membership in which is confined to Lot Owners.

No change.

17. "PERSON"

Currently reads: "PERSON" means a natural person, a corporation, a limited liability company, a partnership, a limited partnership, the Association, a Trust or other legal entity.

No change.

18. "PLANS"

Currently reads: "PLANS" means the design and Layout of the Lots, Common Areas and other portions of the Property and shall include the Plat for Cypress Gates.

No change.

19. "REAL PROPERTY"

Currently reads: "REAL PROPERTY" means the Real Property which has been subdivided by recording the plat for Cypress Gates in the Office of the Judge of Probate of Baldwin County, Alabama.

No change.

20. "SUBDIVISION"

Currently reads: "SUBDIVISION" means that certain parcel of real property that has been or will be subdivided into smaller parcels or Lots by the recording of the Plat for Cypress Gates in the Office of the Judge of Probate of Baldwin County, Alabama, for such Lots to be sold to third parties by the Declarant, and the Common Areas of which are owned by the Association.

No change.

21. "SUBDIVISION DOCUMENTS"

Currently reads: "SUBDIVISION DOCUMENTS" mean collectively the Declaration, Articles and By-laws.

No change.

22. "UTILITY SERVICES"

Currently reads: "UTILITY SERVICES" shall include by not be limited to electrical power, cable, internet, telephone, gas, garbage and sewage disposal.

No change.

23. "OUT BUILDINGS"

New Definition: "OUT BUILDING" means any structure that is separate and attached/detached from the main dwelling of a piece of land requiring a permit through the City of Foley.

24. "FENCES"

New Definition: "FENCE" means any barrier, whether visible or invisible, installed in, on, or above the ground which is designed to prevent movement from one area of land to another area of land.

25. "GO-KARTS"

New Definition: "GO-KARTS" are small, light, low-slung, four-wheeled vehicles, usually powered by a gasoline engine, capable of speeds up to 60 mph and used for racing or recreation. Go-karts are recreational vehicles and must stay off of public roads and premises.

26. "OTHER MOTORIZED VEHICLES"

New Definition: Other motorized vehicles are other modes of transportation propelled by gasoline or electric motors, governed under Alabama law, which include, but are not limited to: Motorized bicycles or tricycles, motorized scooters or e-bikes.

27. "PLAYSETS"

New Definition: Playsets are an outdoor structure erected for children to play on and around. Typical components of an outdoor playset include towers, bridges, ladders, sandboxes, slides, swings, monkey bars.

28. "SPORTS EQUIPMENT OR SPORTING GOODS"

New Definition: Sports equipment or sporting goods are the items used for a physical sport such as but not limited to trampolines, basketball goals, soccer, badminton or pickleball nets, bicycles, tricycles, and skateboards.

29. "TRICYCLE OR TRIKE"

New Definition: Tricycle or Trike is a bicycle, used primarily by children, that has three wheels, one at the front and two at the back and is usually propelled by pedals.

30. "MOTORIZED BICYCLES, TRICYCLES OR TRIKES"

New Definition: Motorized bicycles, tricycles or trikes are a vehicle, used primarily by adults, that has three wheels one at the front and two at the back, propelled by gasoline or electric motors and subject to Alabama law. Alabama law classifies tricycles, trikes or bicycles propelled by a gasoline or electric motor as a "motor-driven cycle" and will be treated as motorcycles.

When the context permits, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

ARTICLE II.
GENERAL APPLICABILITY OF DECLARATION

1. GENERAL APPLICABILITY

Currently reads: GENERAL APPLICABILITY. This Declaration shall apply to all Lots, Common Areas, Streets and Easements shown upon the plat for Cypress Gates Phase 1-A, a subdivision, recorded in the Office of the Judge of Probate of Baldwin County, Alabama at Slide Number 2295-B and at Instrument Number 1004344, and shall apply to any future addition to, extension of or phase of the Subdivision by proper amendment to this Declaration, if such addition or extension shall be made by the Declarant, its successors and/or assigns. Under no circumstances shall this Declaration be deemed or construed to apply to any other adjacent portions of property which are and shall remain the separate property of the Declarant. The imposition of these restrictions shall in no way be construed as a representation that the Subdivision may be expanded, or additional subdivisions or extensions thereto be made. Each of the restrictions, covenants, limitations, conditions, reservations, and easements made and set forth herein shall apply as if this Declaration were set forth in its entirety in each deed from the Declarant to any person, firm or corporation conveying or affecting any of the Lots, areas or streets and by the acceptance of any deed to said property. Any purchaser or grantee agrees and binds itself to make all deeds of land in the Subdivision and all contracts of sale or contracts for deeds conveying land in the Subdivision, subject to this Declaration.

Will be amended to read: GENERAL APPLICABILITY. This Declaration shall apply to all Lots, Common Areas, Streets and Easements shown upon the plat for Cypress Gates Phase 1-A, a subdivision, recorded in the Office of the Judge of Probate of Baldwin County, Alabama at Slide Number 2295-B and at Instrument Number 1004344, **and the plat for Cypress Gates Phase 1-B, a subdivision, recorded in the Office of the Judge of Probate of Baldwin**

County, Alabama at Slide Number 2644 and shall apply to any future addition to, extension of or phase of the Subdivision by proper amendment to this Declaration, if such addition or extension shall be made by the Declarant, its successors and/or assigns. Under no circumstances shall this Declaration be deemed or construed to apply to any other adjacent portions of property which are and shall remain the separate property of the Declarant. The imposition of these restrictions shall in no way be construed as a representation that the Subdivision may be expanded, or additional subdivisions or extensions thereto be made. Each of the restrictions, covenants, limitations, conditions, reservations, and easements made and set forth herein shall apply as if this Declaration were set forth in its entirety in each deed from the Declarant to any person, firm or corporation conveying or affecting any of the Lots, areas or streets and by the acceptance of any deed to said property. Any purchaser or grantee agrees and binds itself to make all deeds of land in the Subdivision and all contracts of sale or contracts for deeds conveying land in the Subdivision, subject to this Declaration.

2. ANNEXATION OF ADDITIONAL PROPERTY

Currently reads: "ANNEXATION OF ADDITIONAL PROPERTY". The Declarant anticipates developing the Subdivision in three phases. Phase 1-A, Phase 1-B and Phase 2; provided, however, Phases 1-B and 2 'NEED NOT BE BUILT.'" Phase 1-A will be completed. The plat is signed and recorded in the Office of the Judge of Probate of Baldwin County, Alabama, Slide #2295B. Phase 1B has been completed and the Plat is signed and reported in the Office of the Judge of Probate of Baldwin County, Alabama, Slide #2644. The Declarant shall have the right to incorporate property into the Subdivision in phases by recording a plat of property to be so incorporated in the records of the Office of the Judge of Probate of Baldwin County, Alabama and by further recording an amendment to this Declaration providing that such additional property shall be governed by this Declaration, the Articles, and the By-Laws.

Will be REMOVED IN ITS ENTIRETY.

**ARTICLE III.
IMPROVEMENTS**

1. LAND USE AND BUILDING TYPE

Currently reads: LAND USE AND BUILDING TYPE. Except for a sales office and display models by the Declarant, no Lot shall be used except for residential purposes. No Dwelling shall be erected, altered, placed or permitted to remain on any Lot other than one (1) family Dwelling and an attached garage. DSLD Homes LLC has received ARC approval on all Lots to be acquired by DSLD

Homes, LLC in Phase 1B. DSLD Homes LLC shall have the right to have and operate a model home as long as DSLD Homes LLC owns a lot in the Subdivision.

Will be amended to read: LAND USE AND BUILDING TYPE. No Lot shall be used except for residential purposes. No Dwelling shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) single family Dwelling and an attached garage.

2. DWELLING QUALITY, SIZE AND DESIGN

Currently reads: DWELLING QUALITY, SIZE AND DESIGN. All Dwellings shall be of quality workmanship and materials. Dwellings shall be not less than one thousand three hundred (1,300) square feet of heated and air conditioned space. No Dwelling shall be more than 2 stories in height. The garage shall house a minimum of one (1) and a maximum of three (3) vehicles. The roof rafter being height shall not be less than eight (8) feet above finished first floor. The primary roof pitch of the main structure shall not be less than 6/12. All building plans shall be approved by the Architectural Review Committee.

No change.

3. BUILDING LOCATION

Currently reads: BUILDING LOCATION. No building or structure shall be located on any Lot nearer to any Lot line than the setback line noted or shown on the recorded Subdivision plat. If no such setback line is noted or shown on the plat, then all minimum setbacks shall be in conformity with the Foley Zoning Ordinances as they pertain to this subdivision.

No change.

4. EXTERIOR FINISHES

Currently reads: EXTERIOR FINISHES. Exterior finish materials shall be of high quality and durable, such as wood, brick, stucco and the like. Aluminum may be used for soffit and facial details. No materials constructed out of asbestos or fiberglass shall be allowed. All exterior materials, including roofing, windows and other materials shall be approved by the Architectural Review Committee before use. DSLD Homes LLC has received ARC approval to also use Hardie, vinyl, and board and batten vinyl.

Will be amended to read: EXTERIOR FINISHES. Exterior finish materials shall be of high quality and durable, such as wood, brick, stucco, Hardie, vinyl and board and batten vinyl and the like. Aluminum may be used for soffit and

facial details. No materials constructed out of asbestos or fiberglass shall be allowed. All exterior materials, including roofing, windows and other materials shall be approved by the Architectural Review Committee before use.

- a. ROOFS. No object, structure, decoration including, but not limited to, weathervanes, cupolas, finials steeples, or skylights may be placed or affixed to any roof with the exception of a satellite dish not to exceed 39 inches in diameter, or an over-the-air antenna, as defined in the Telecommunications Act of 1996. Roof shingles to be used in Phase 1a shall be the “Dynasty Driftshake” style and color manufactured by IKO and in 1b shall be the “Cambridge Weatherwood” style and color manufactured by IDO. Any substitution must be a similar material and color and must be approved by the Architectural Review Committee before use.
- b. SOLAR PANELS. Solar panels can be installed on the back side of the roof with the approval of the ARC Committee.

5. MODULAR HOUSING

Currently reads: MODULAR HOUSING. No modular housing units may be used on the premises in Phases I-A or I-B. No metal-clad siding, asphalt, asbestos or roll siding will be permitted on the exterior of any building, unless express written permission is granted by the Architectural Review Committee.

No change.

6. DETACHED BUILDINGS

Currently reads: DETACHED BUILDINGS. Any detached building must be in architectural keeping with the main dwelling and be approved by the Architectural Review Committee.

No change.

7. TRAFFIC HAZARDS

Currently reads: TRAFFIC HAZARDS. No fence, wall hedge, shrub, bush, tree or other thing, natural or artificial, shall be placed, maintained, or permitted to remain on any Lot or Common Area, if the location of such obstructs the vision of a motorist.

No change.

8. RESTRICTIONS OF EASEMENTS

Currently reads: RESTRICTIONS OF EASEMENTS. No title to land in any street is intended to be conveyed or shall be conveyed to the grantee under any

deed, or the purchaser under any contract or purchase, unless expressly so provided in such deed or contract or purchase.

Easements for installation and maintenance of utilities and drainage facilities are reserved as noted or shown on the recorded plat.

No dwelling, house, garage, outbuilding or other structure of any kind shall be built, erected or maintained upon any such easements and said easements shall, at all times, be open and accessible to public or quasi-public utility corporations, and other persons erecting, constructing or servicing such utilities and Declarant, its successors and assigns, all of whom shall have the right of ingress and egress thereto, and therefrom and the right privilege of doing whatever may be necessary in, under and upon said locations for carrying out of any of the purchases for which said easements, reservations and rights-of-way are reserved, or may hereinafter be reserved.

No change.

9. DRAINAGE

Currently reads: DRAINAGE. Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as designated on said plat. Each Lot shall be developed in such a manner as to carry away surface water that may exist either prior to, or as a result of, the development of the Lot. Each Lot shall further be developed in such a manner as to include common Lot line swales and designed to prevent water from draining onto neighboring Lots. No fences or other structure shall be erected in a manner that will hinder or prohibit the free flow from the drainage easement, and the owner will keep the same clean and free from obstruction. For a period of five (5) years from the date of conveyance of any Lot, Declarant reserves a blanket easement on, over and under the ground within the Subdivision to maintain and correct drainage or surface water in order to maintain health, safety and appearance. Such right expressly includes the right to cut trees, bushes, and shrubbery, make any grading of the road or take similar action, following which Declarant will restore the property as nearly as possible to its original condition.

The Association, which will be created to maintain the Common Areas of the Subdivision and to perform such other duties as are set forth herein, in the Articles and in the By-laws, shall be responsible for maintaining the drainage system of the Subdivision pursuant to the relevant ordinances of the City of Foley, as follows:

- a. The Association shall inspect all drainage structures monthly and clean said structures periodically as is necessary to remove all silt and other debris.
- b. The Association shall maintain all swales and detention ponds in their same state as their original construction by repairing and/or replacing sod and/or grass as necessary to maintain all slopes and berms.
- c. The Association shall repair and/or replace all concrete culverts, flumes, swales and/or headwalls as necessary to maintain said structures as originally constructed.
- d. The Association shall be required to perform such other maintenance and/or repair to the drainage systems of the Subdivision as are reasonably necessary for the drainage system to function properly.

Will be amended to read: DRAINAGE. Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as designated on said plat. Each Lot shall be developed in such a manner as to carry away surface water that may exist either prior to, or as a result of, the development of the Lot. Each Lot shall further be developed in such a manner as to include common Lot line swales and designed to prevent water from draining onto neighboring Lots. No fences or other structure shall be erected in a manner that will hinder or prohibit the free flow from the drainage easement, and the owner will keep the same clean and free from obstruction. For a period of five (5) years from the date of conveyance of any Lot, the Association reserves a blanket easement on, over and under the ground within the Subdivision to maintain and correct drainage or surface water in order to maintain health, safety and appearance. Such right expressly includes the right to cut trees, bushes and shrubbery, make any grading of the road or take similar action, following which the Association will restore the property as nearly as possible to its original condition.

The Association was created to maintain the Common Areas of the Subdivision and to perform such other duties as are set forth herein, in the Articles and in the By-laws, shall be responsible for maintaining the drainage system of the Subdivision pursuant to the relevant ordinances of the City of Foley, as follows:

- a. The Association shall inspect all drainage structures monthly and clean said structures periodically as is necessary to remove all silt and other debris.

- b. The Association shall maintain all swales and detention ponds in their same state as their original construction by repairing and/or replacing sod and/or grass as necessary to maintain all slopes and berms.
- c. The Association shall repair and/or replace all concrete culverts, flumes, swales and/or headwalls as necessary to maintain said structures as originally constructed.
- d. The Association shall be required to perform such other maintenance and/or repair to the drainage systems of the Subdivision as are reasonably necessary for the drainage system to function properly.

10. TIME LIMIT FOR CONSTRUCTION

Currently reads: TIME LIMIT FOR CONSTRUCTION. Construction of a Dwelling must be completed no later than twelve (12) months from commencement of construction.

No change.

**ARTICLE IV.
GENERAL LAND USE AND OTHER RESTRICTIONS**

1. NUISANCES.

Currently reads: NUISANCES. No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Will be amended to read: NUISANCES. No obnoxious, offensive, or illegal activity shall be carried upon any Lot, nor shall anything be done thereon which maybe or may become an annoyance or nuisance to the neighborhood that:

- a. may reasonably be considered or may become annoying to other Lot Owners,
- b. may reduce the desirability of the Subdivision as a residential neighborhood,
- c. may endanger the health or safety of residents of other Lots,
- d. may result in the cancellation of insurance on the Lot or violates any law.

The Board of Directors shall have the sole authority to determine what constitutes a nuisance or annoyance. Quiet time is between the hours of 10:00 pm and 8:00 am.

2. TEMPORARY STRUCTURES

Currently reads: TEMPORARY STRUCTURES. No structure of a temporary character, trailer, shack, garage, barn, or other outbuilding shall be used on any Lot at any time either temporarily or permanently.

No change.

3. SIGNS

Currently reads: SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except one professional sign of not more than five (5) square feet advertising the Lot for sale or rent, or identification during the construction period. The Declarant shall be exempt from this section. DSLD Homes, LLC shall have the right to post a sign at entrances to the subdivision and on all lots owned by DSLD Homes, LLC., in conformance with codes.

Will be amended to read: SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except one professional sign of not more than five (5) square feet advertising the Lot for sale or rent. Garden flags, yard or lawn decorations, or seasonal decorations are excluded from this provision. Residents that drive a company vehicle with advertising on the sides may park the vehicle in the driveway.

4. LIVESTOCK AND POULTRY

Currently reads: LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets in reasonable number, may be kept provided that they are not kept, bred or maintained for any commercial purposes, nor shall they be bred for non-commercial purposes so as to become a nuisance.

Will be amended to read: LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets in reasonable number, may be kept if they are not kept, bred or maintained for any commercial purposes, nor shall they be bred for non-commercial purposes so as to become a nuisance.

5. GARAGE AND REFUSE DISPOSAL

Currently reads: GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish, garbage, trash, or other waste.

All such waste shall be kept in sanitary, covered containers with locking lids, which shall be maintained in a clean and sanitary condition, and which shall, unless required to be placed elsewhere on certain days for pickup, be kept from public and from the view of any street and adjoining Lots.

No change.

6. MAINTENANCE OF PROPERTY

Currently reads: MAINTENANCE OF PROPERTY. Each Lot Owner shall keep his or her respective Lots and all improvements thereon in good appearance and repair, free of debris. All lawns shall be mowed. All trees and shrubbery shall be pruned, except for Lots left in their natural wooded state. Lawns shall be kept free of noxious insects, and infectious and spreading weeds, all in a manner consistent with good property management. Lot Owner is responsible for any infractions such as grass clipping being blown or dumped in pond or drainage areas. In the event the Lot Owner shall fail to comply with these provisions, the Association, upon thirty days written notice to Owner, shall have the right to enter upon said Lot to correct same and shall be entitled to levy a special assessment against the Owner of said Lot to cover the cost thereof.

Will be amended to read: MAINTENANCE OF PROPERTY. Each Lot Owner shall keep his or her respective Lots and all improvements thereon in good appearance and repair, free of debris. All lawns shall be mowed. All trees and shrubbery shall be pruned, except for Lots left in their natural wooded state. Lawns shall be kept free of noxious insects, and infectious and spreading weeds, all in a manner consistent with good property management. **Lot Owner is responsible for any infractions such as grass clipping being blown or dumped in pond or drainage areas.** In the event the Lot Owner shall fail to comply with these provisions, the Association, upon thirty days written notice to Owner, shall have the right to enter upon said Lot to correct same and shall be entitled to levy a special assessment against the Owner of said Lot to cover the cost thereof.

7. UTILITIES AND ANTENNAS

Currently reads: UTILITIES AND ANTENNAS. All utilities shall be placed underground. Each Lot Owner is required to connect to said utilities at his or her expense. No exterior tower, large satellite dish or other device shall be visible from any street or adjoining Lots.

Will be amended to read: UTILITIES AND ANTENNAS. All utilities shall be placed underground. Each Lot Owner is required to connect to said utilities at his or her expense. No exterior tower, satellite dish, antenna or other device shall be

installed on any Lot except as allowed in Section 207 of the Telecommunications Act of 1996 and any amendments thereto.

8. MAILBOXES AND HOUSE MARKERS

Currently reads: MAILBOXES AND PROPERTY IDENTIFICATION MARKERS.

All mailboxes and mailbox posts must be approved by the Architectural Review Committee. The Lot Owner shall not place any additional lettering on the mailbox, except as required by the Postal Service.

Will be amended to read: MAILBOXES AND HOUSE MARKERS. All mailboxes and mailbox posts must be approved by the Architectural Review Committee. The Lot Owner shall not place any additional lettering on the mailbox, except as required by the Postal Service.

House markers, not to exceed 16 inches in height or length, may be affixed to the exterior of any residence and must include street number. The marker should be easily read from the street to assist the emergency vehicles (i.e., police, ambulance, and fire departments, etc.) in locating the residence. Customary language or other identification of the residence must be approved by the Architectural Review Committee. House markers shall not be considered signs or fall under restrictions related to signs.

9. VEHICLES

Currently reads: VEHICLES. The immobilization of any vehicle for repairing or overhauling at a Lot or on any street within the Subdivision is hereby prohibited.

Will be amended to read: VEHICLES. The immobilization of any vehicle for repairing or overhauling at a Lot or on any street within the Subdivision is hereby prohibited. Vehicles may not be parked on the grass portion of any Lot or Common Area. Temporary parking on the street adjoining a Lot is permitted for the purpose of loading, unloading, construction parking, or general visitation parking during the day only. Visitors may park on the street for 48 hours. Parking on the street must not block driveways or interfere with the flow of traffic.

10. BOAT AND BOAT TRAILERS

Currently reads: BOAT AND BOAT TRAILERS. Boat trailers or boats may not be stored on a Lot, except in enclosed garages or in a screened area approved by the Architectural Review Committee. Boat trailers or boats shall not be stored on the Common Areas.

No change.

11. RECREATIONAL VEHICLES AND OTHER TRAILERS

Currently reads: RECREATIONAL VEHICLES AND OTHER TRAILERS.

Recreational Vehicles and trailers may not be stored or kept on a Lot or on the Common Areas except in enclosed garages or in a screened area approved by the Architectural Review Board. Recreational Vehicles, campers, boats, and small moving trucks may be parked in a homeowner's driveway for 48 hours for the purposes of loading, unloading, and cleaning provided they do not extend into the sidewalk for those properties with a sidewalk, or the curb for those properties with no sidewalk. Large moving vans must use the Fern Avenue entrance. NO overnight parking of large moving vans will be permitted in Cypress Gates. No Recreational Vehicle parking on Surrey Loop.

Will be amended to read: RECREATIONAL VEHICLES AND OTHER

TRAILERS. Recreational Vehicles and other trailers may not be stored or kept on a Lot or on the Common Areas except in enclosed garages or in a screened area approved by the Architectural Review Committee. Recreational Vehicles, campers, and boat trailers may be parked in a homeowner's driveway for 72 hours for the purposes of loading, unloading, and cleaning provided they do not extend into the sidewalk for those properties with a sidewalk, or the curb for those properties with no sidewalk.

- a. In keeping with being a good neighbor, it is important for Lot Owners to recognize that moving type vehicles such as moving vans, moving company semis and portable storage units such as PODS will periodically be in our community when a Lot Owner decides to sell.
- b. Portable storage units or PODS may be parked in a homeowner's driveway for the purpose of loading or unloading. These moving vehicles may extend onto the sidewalks for those properties with sidewalks but should not extend onto the curb for those properties with no sidewalk. Overnight parking on the street is permissible until the moving van or portable storage unit is moved from the driveway, provided the vehicle does not block the street or other Lot Owner's driveways. Should overnight street parking exceed 7 calendar days, approval will be required from the Board of Directors.
- c. Should a moving company utilize a semi, the Lot Owner is responsible for advising the moving company that the semi MUST go through the gate on West Fern Avenue and not through the front gate off of North Cedar Street. The Lot Owner is also responsible for coordinating access of the Fern Ave gate with the Board of Directors.

12. CLOTHESLINES

Currently reads: CLOTHESLINES. No clotheslines shall be maintained on any Lot.

Will be amended to read: CLOTHESLINES. No clotheslines shall be maintained on any Lot or Common Area.

13. FENCES

Currently reads: FENCES. All proposed fences must be submitted to the Architectural Review Committee for approval. No fences shall be located on the front portions of any Lot, nor shall privacy fences be allowed on any Lot which backs up to a lake.

Will be amended to read: FENCES. All proposed fences must be submitted to the Architectural Review Committee for approval. No fences shall be located on the front portions of any lot nor shall privacy fences be allowed on any Lot which backs up to a Lake. No electric fences are allowed.

14. EXTERIOR COLOR SCHEMES

Currently reads: EXTERIOR COLOR SCHEMES. Exterior color schemes shall be submitted to the Architectural Review Committee for approval, this requirement shall also include all exterior maintenance painting, unless the original color scheme is retained.

Will be amended to read: EXTERIOR COLOR SCHEMES. Any changes from the original colors must be approved by the Architectural Review Committee and be compatible with the colors existing in the community. Color samples must be submitted for approval.

15. MISCELLANEOUS

Currently reads: MISCELLANEOUS. Wood piles, dog houses, etc. shall be in a screened area, approved by the Architectural Review Committee, or hidden from view from any adjacent street and shall be cleaned and property maintained.

No change.

16. DUAL FACING OF RESIDENCE

Currently reads: DUAL FACING OF RESIDENCE. Any Dwelling building on a corner Lot abutting two (2) streets shall be so designed and oriented on the Lot as to present an attractive appearance from each street.

No change.

17. SUBDIVIDING OF PROPERTY

Currently reads: SUBDIVIDING OF PROPERTY. No Lot shall be sold or subdivided except as a whole for the purpose of building a complete Dwelling, and only one Dwelling shall be constructed upon each Lot. Two (2) Lots may be combined into one Lot or a Lot may be divided between (2) adjoining Lots for the purpose of creating a larger Lot, but no more than one Dwelling shall be built on any Lot and portion of an adjoining Lot that may have been divided or subdivided to create a larger Lot. This paragraph is subject to the subdivision regulations promulgated by the City of Foley, Alabama.

No change.

18. HOUSEHOLD PETS

New: HOUSEHOLD PETS. Any domesticated animal, such as a dog, cat, bird, rodent (including a rabbit), fish, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes. The keeping of domesticated household pets in a reasonable number (four) is permitted on any Lot provided:

- a. All household pets shall be always under restraint when off the owner's Lot.
- b. All household pets shall be restricted to the back yard and no more than halfway up the side yard by either fence, or pet containment system when in the owner's yard and not otherwise under restraint.
- c. No owner or custodian of any household pet shall permit or allow such animal to constitute a public nuisance by habitually making loud or disturbing noises.
- d. No owner or custodian of a household pet shall allow or permit such animal to cause injury or fear of injury to any person on the streets, ways, parks, or grounds of the Subdivision.
- e. Owners must remove animal feces be deposited upon property of another Owner, drainage, pond, or Common Areas of the Subdivision.

- f. The Board of Directors has the sole authority to determine what constitutes a nuisance or annoyance in accordance with Article IV, 1.

19. MOTORCYCLES, GO-CARTS, GOLF CARTS, AND OTHER MOTORIZED VEHICLES OR EQUIPMENT

New: Motorcycles, golf carts, all-terrain vehicles (ATVs) and other motorized vehicles or equipment, except go-karts, may be driven in on, or around the Subdivision only for entering or exiting the Subdivision from a public street or highway to the residence of a Lot Owner, or to travel to or from one residence to another residence. All vehicles must be garaged when not in use. Please see definition for other motorized vehicles.

Go-karts are prohibited within the cul-de-sacs, street, or common areas of the Subdivision.

20. OUTBUILDINGS

New: OUTBUILDINGS (see Article I. DEFINITIONS Number 25)

- a. No freestanding gazebo, green house, shed or other outbuilding shall be erected or built on any lot except for a shade arbor/ pergola.
- b. A pergola is permitted when located in the back of the house and built to withstand winds of 135 mph. Pergolas are considered outbuildings and therefore restricted in size and can be constructed *only* after securing City of Foley building permit and inspection as well as design approval by the Architectural Review Committee prior to construction. A qualified and bonded contractor must be approved by the Architectural Review Committee which has total authority to permit or deny request based on various factors including but not limited to location, obstruction of view of other lot owners, easements, setbacks, materials and size. Paint, stain and/or sealant shall be reapplied as needed to prevent degradation in the appearance. No material coverings are permitted on a pergola.
- c. Standard screened back porches are considered an addition or extension to the existing roofing of the house. As such, they must conform in style, appearance, color, and materials to that of the main residence such that they appear to be a part of the original construction as well as restricted in size and can be constructed *only* after securing City of Foley building permit and inspection as well as design approval by the Architectural Review Committee prior to construction. A qualified and bonded contractor must be approved by the Architectural Review Committee which has total authority to permit or deny request based on various factors including but

not limited to: location, obstruction of view of other lot owners, easements, setbacks, materials and size.

21. DRIVEWAYS

New: DRIVEWAYS. All driveways must be constructed of a minimum of 4 inches of concrete. No construction of a driveway or alterations to an existing driveway shall be made without approval by the Architectural Review Committee. No coating or covering may be applied or installed on a driveway without approval by the Architectural Review Committee. Recommend concrete or stamped concrete be used for extension of driveways. Usage of mulch and gravel will not be approved. Driveways may be extended, not to exceed beyond the corners of the garage.

22. LANDSCAPING REQUIREMENTS

New: LANDSCAPING REQUIREMENTS. Exterior landscaping shall be reviewed on a case-by-case basis to assure they conform with the existing aesthetics of the community as well as CC&R's.

- a. Front, side and back yards shall be of sod and shall be kept mowed and free of weeds, insects and disease. Non-invasive plants, flowers, shrubs, and small trees may be planted without restriction provided they do not interfere with a neighbor's view of the pond, street or park and are planted no less than five (5) feet from adjoining property lines. Trees with an expected height at maturity more than twenty (20) feet may be planted only with approval from the Architectural Review Committee. No flower, plants, shrubs, or trees may be planted on the street or utilities right of way without permission from the Architectural Review Committee.
- b. Personal agriculture & food gardens may be planted in the back of the lot except for fruit bushes and trees which may also be planted on lot sides. No personal food garden shall be planted in common areas. NO plant crops of Marijuana or unlawful substances are permitted.

23. FLAGS AND FLAG POLES

New: FLAGS AND FLAGPOLES. No more than two flags may be displayed on any Lot at the same time and may not exceed (4) feet in height or (6) feet in Length. Flagpoles may be affixed at a 45-degree angle to the exterior wall or porch of a residence or may be installed horizontally in or above the ground. In ground Flagpoles must be approved by the Architectural Review Committee.

The American flag, the flag of any state, the flag of any school, University or College, the flag of any branch of the United States Military or of a Veterans

organization may be displayed without limitation. Any other flags may be displayed only with the approval of the Architectural Review Committee. This provision does not apply to garden flags.

24. SWIMMING POOLS AND SPAS

New: POOLS AND SPAS. In-ground swimming pools or Lap pools may not be installed or constructed on any Lot without the approval of the Architectural Review Committee.

- a. The pool must comply with all requirements of the City of Foley or the State of Alabama, and all permits must be obtained before construction begins. Pools and pool equipment must be screened from the public view by fence. Slides or diving boards are not permitted.
- b. Above ground swimming pools may not be installed on any Lot, except, a small kiddie pool may be used provided that the pool is removed from the public view at night fall and is stored out of the public view.
- c. Hot tubs and spas may not be installed on any Lot without the approval of the Architectural review Committee. Hot tubs and spas that are approved must have a lockable cover for the top.

25. YARD ART

New: YARD ART. Yard Art is an issue of personal taste rather than an issue of governing documents. While it is not possible nor appropriate to make rules based on personal taste, the Cypress Gates Board is instituting a policy regarding Art that is outside the home, in front yards, side yards and on houses. The purpose of this policy is to continue to maintain a unified appearance in our community.

Yard art is defined as items that are manmade, or some natural items not in native settings or/and form; as opposed to landscaping materials such as rock, living plants, shrubs, trees, and flowers. This policy includes items placed in front and side yards, sidewalks, driveways and mounted on gates, walls, and housing structures.

Yard art should be consistent with a *Coastal Theme*. The objects should complement homes rather than outshine them. A limited number of decorative items should be used. In most cases, six (6) items will be the maximum.

An application for approval must be submitted to and reviewed by the Architectural Committee prior to the installation or erection of any **oversized**

exterior decorative objects, natural or manmade. Oversized decorative objects are defined as any object exceeding 18 inches in height and 14 inches in either width or depth and includes, but is not limited to, such items as sculptures, fountains, driftwood, pottery. Oversized decorative objects will be considered based on their size, color, scale, location, compatibility and environmental design qualities and their visual impact of adjoining lots. The Architectural Review Committee has total authority to permit or deny requests based on various factors including but not limited to location, obstruction of view of other lot owners, easements, setbacks, materials, and size.

Among items that should be excluded are anything highly personalized, valuable, and potentially offensive.

Decorative items that don't comply with this policy may be placed in the back yards. Please note that large items and potentially offensive items placed in the back yard will be subject to policy if they are visible to the neighbors or the community in general.

Garden flags shall not be considered signs for the purpose of sign regulation.

26. HOLIDAY DECORATIONS

New: HOLIDAY DECORATIONS. Notwithstanding any other restrictions contained within these Covenants, customary holiday decorations, without restriction, may be installed, placed or displayed in your yard or on the exterior of your residence for any Federal Holiday and shall include Mardi Gras, and Halloween. Holiday decorations may be displayed no earlier than thirty (30) days prior to the holiday and must be removed no later than fifteen (15) days following a holiday

27. PLAYSETS AND SPORTS EQUIPMENT

New: PLAYSETS AND SPORTS EQUIPMENT. Playsets, sports equipment, or sporting goods (e.g., trampolines, basketball goals, soccer nets, and other play or sports equipment) shall not be installed or placed on any Lot, except when such equipment may be temporarily installed or placed in a backyard provided the equipment is removed before nightfall and stored out of sight from the public view. Playsets and sports equipment, including skateboards and scooters, may not be placed, or used on the street or sidewalks.

Wheelchairs or scooters used for medical purposes are not considered sports equipment and is exempt.

28. OPEN FIRES, FIREPITS AND CHIMINEAS

New: OPEN FIRES, FIREPITS AND CHIMINEAS. Small recreational fires are permitted by the City of Foley and do not need a permit however, fire regulations are in place not only to remain courteous to your neighbors but also ensure your safety and the safety of those around you. No open fires are permitted at any time.

- a. LOCATION GUIDELINES: Portable fire pits and chimineas must be natural gas or propane and are permitted in the back yard. These items must be maintained a safe distance from the house and must be placed on fire-resistant surfaces like concrete, brick or stone and kept away from other combustible materials.
- b. BURN MATERIAL RESTRICTIONS. The burning of certain materials can result in dangerous and foul-smelling gases. No burning of materials like paper, magazines, and particleboard.
- c. SUPERVISION REGULATIONS. All fires must be supervised by an adult the entire time of the burn. NO fires are permitted during high wind conditions. All fires must be completely extinguished.

29. TANKS

New: TANKS. No tank of any kind may be erected, placed or maintained on any Lot with the following exception: Propane tanks with 20 # capacity are permitted above ground for generator and/or grill use. NO fuel or water tanks may be maintained above ground nor be buried.

30. LEASING

New: LEASING. The Lot Owner must provide the name and contact information of any lessee to the Board of Directors within 10 days of Leasing and must also provide proof of delivery of a copy of all Association Covenants, Rules and Regulations to the Lessee. The lot owner shall be liable for any unpaid fines, or any costs incurred for violations incurred by Lessee. Any violations should be dealt with immediately and corrected within (7) days.

- a. LEASE REQUIREMENTS: NO subletting, NO Airbnb or similar Bed & Breakfast type rentals are permitted.
- b. RENTAL CAP: A ceiling of 20% of homes (22 homes) may be rented out at any one time. Once the cap is reached, no further properties may be rented and owners wishing to do so will be placed on a waiting list

established by the Board of Directors.

31. SECURITY

New: SECURITY. The Association may, but is not obligated to, maintain, or support certain activities within the Subdivision designed to improve safety in or on the Subdivision Property. Each Lot Owner and resident acknowledges and agrees, for himself and his guests, that the Association, and the Association directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Subdivision. Each Lot Owner and resident acknowledge and accepts his sole responsibility to provide security for his own person and property and assumes all risks for loss or damage to the same. Each Owner and resident acknowledge and agrees that the Association and the Association directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

**ARTICLE V.
ARTITECTURAL CONTROL**

1. MEMBERSHIP OF THE ARCHITECTUARL REVIEW COMMITTEE.

Currently reads: MEMBERSHIP OF THE ARCHITECTURAL REVIEW COMMITTEE. The initial members of the Architectural Review Committee, hence A.R.C., shall be Philip Osborne, David M. C. Green and J.S. Lawrence Green. At such time as Philip Osborne, David M.C. Green and J.S. Lawrence Green, in their sole discretion should elect to relinquish the duties and responsibilities of the A.R.C., then in that event the A.R.C., shall be appointed by, and serve, at the pleasure of the Lot Owners of the Subdivision. A majority of the A.R.C., may designate a representative to act for it. The initial A.R.C., shall serve subject to the power of the Declarant as hereinafter set forth. The A.R.C., may charge a review fee to offset the expense of making a review.

When the A.R.C. is appointed by the Lot Owners, there shall be at least five (5) members of the A.R.C., two (2) of which may not be Members of the Association. Members of the A.R.C., shall be elected by a majority of the Members present in person or by proxy at a meeting held for the purpose of election of members of the A.R.C. A member of A.R.C. may also be a director or officer of the Association. Once elected, any member of the A.R.C., may be removed and a new member elected to his place by a majority vote of the Members present in person or by proxy at any meeting (at which a quorum is present) called for that purpose.

Will be amended to read: PURPOSE AND MEMBERSHIP OF THE ARCHITECTURAL REVIEW COMMITTEE. The purpose of the Architectural Review Committee (ARC) is to regulate the design, use, and appearance of all Lots and Dwellings in the Subdivision in order to preserve and enhance the Subdivision's value and architectural harmony. The Architectural Review Committee is authorized to act as agent for the Board of Directors in exercising control over plans for all new or rebuilt dwellings, and modifications and improvements to existing dwellings, including, but not limited to, buildings and structures, gazebos, pergolas, other canopies, landscaping, pools and spas, flags and flagpoles, lawn and yard ornaments and decorations, and holiday decorations.

Members of the Architectural Review Committee shall be shall be elected by a majority of the Members present, in person or by proxy, at a meeting held for the purpose of election of members of the ARC. There shall be a minimum of three (3) members and a maximum of five (5) members of the Architectural Review Committee. A member of the Architectural Review Committee may also be a director or officer of the Association. Once appointed, any member of the Architectural Review Committee may be removed and a new member appointed to his place by a majority vote of the Board of Directors. A member of the Board of Directors may also be a member of the Architectural Review Committee.

2. APPROVAL OF ARCHITECTURAL AND LANDSCAPE PLANS

Currently reads: APPROVAL OF ARCHITECTURAL AND LANDSCAPE PLANS. No building or Dwelling, fences, walls, driveways, parking areas, service courts, satellite dishes, antennas, dog houses, flag poles or other structure shall be commenced erect or maintained nor shall any addition to or exterior change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, height, material, floor plan, structural specifications, exterior color scheme, location, square footage and grading shall have been submitted to and approved by a majority of the members of the A.R.C., it's successors and assigns, and a copy of the plans and build specifications to be lodged permanently with A.R.C. Upon submission of the plans as herein specified the A.R.C. shall have fourteen (14) days to approve or disapprove any such building plans and specifications, and may in its absolute discretion, reject any or all the plans which are not suitable or desirable for any reason, including purely aesthetic reasons. In approving or passing upon such plans and specifications, the A.R.C. shall have the absolute and discretionary right to take into consideration the stability of the proposed building, the materials from which it is constructed, the Lot upon which it is proposed to be erected, the harmony thereof with the surrounding Lots as planned and taking into consideration the outlook from the adjacent or neighboring Lots. All such building plans and specifications

shall consist of not less than section details, floor plans of all floors, elevation drawings of all exterior walls fronting any street, roof plans and a plot plan showing the location and orientation of the building on the Lot, with all setbacks and shall also show the location of driveways, service courts, parking and all other proposed construction upon the Lot. At the same time, a preliminary landscape development plan shall be submitted to the A.R.C., for approval concurrently with the building plans. A final landscape plan shall be submitted and approved before planting. The A.R.C., reserves the absolute right to establish and enforce the general development criteria for the approval of construction of a Dwelling on the Lot which is subject to these restrictions, said right to include general or specific requirements concerning the nature, kind, shape, height, width, materials, color schemes, as well as the architectural and structural requirements thereof.

Will be amended to read: APPROVAL OF ARCHITECTURAL AND LANDSCAPE PLANS, OR OTHER REQUESTS FOR APPROVAL. Upon approval, the ARC will specify whether approval is granted upon the contingency that a permit from the City of Foley is required and a copy of the permit must be provided before construction can begin. Approval must be granted to each household and must not be assumed as acceptance for all Lot Owners.

- a. Plans and specifications showing the nature, kind, shape, height, material, floor plan, structural specifications, exterior color(s) scheme, location, square footage and grading must be submitted to and approved by a majority of the members of the ARC. No building or Dwelling, fences, walls, driveways, parking areas, service courts, satellite dishes, antennas, dog houses, flagpoles, gazebos, pergolas, other canopies, pool or spa, lawn or yard ornaments or decorations, or other structure shall be commenced, installed, placed, erected or maintained nor shall any addition to or exterior change or alteration thereto be made until a copy of the plans and building specifications to be lodged permanently with the ARC.
- b. Upon submission of the plans or requests for approval as herein specified, the ARC shall have fourteen (14) days to approve or disapprove any such building plans and specifications, or other requests for approval, and may in its absolute discretion, reject any or all the plans or requests for approval which are not suitable or desirable for any reason, including purely aesthetic reasons. In approving or passing upon such plans, specifications, and requests for approval, the ARC shall have the absolute and discretionary right to take into consideration the materials from which it is to be constructed, Lot on which it is proposed to be erected, placed, or installed, the harmony thereof with the surrounding Lots and taking into consideration the outlook from the adjacent or neighboring Lots. All

building plans and specifications shall consist of not less than section details, floor plans of all floors, elevation drawings of all exterior walls, roof plans and a plot plan showing the location and orientation of the building on the Lot, with all setbacks and shall also show the location of driveways, and sidewalks and all other proposed construction upon the Lot.

- c. A landscape plan, when required, shall be submitted, and approved before planting. The ARC shall establish criteria and procedures for the approval of construction or modification of a Dwelling on the Lot which is subject to these restrictions, said right criteria to include general or specific requirements concerning the nature, kind, shape, height, width, materials, color schemes, as well as the architectural and structural requirements thereof and may develop requirements for the approval process.
- d. If construction requires a building permit from a governmental body, approval is conditioned on the issuance of the appropriate permit. The ARC approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, governmental approval does not ensure ARC approval. The ARC shall retain a permanent record of all requests from Lot owners and response thereto and shall periodically report to the Board of Directors such decisions.

The Federal Fair Housing Act allows for a member within the Association to modify the members (unit) at the Members expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which be hazardous to these persons. Modifications to the exterior of the unit must not prevent reasonable passage by other residents and must be removed when the unit is no longer occupied by the disabled persons requiring the modifications. The Association may not deny approval of the proposed modifications "without good cause". When a disabled person makes a request for reasonable accommodation and the person's disability is obvious, an HOA cannot request additional information to verify the existence of the claimed disability. When the disability is not obvious, an HOA can request information verifying:

- a. that the person is disabled,
- b. that there is a need for the requested accommodation,
- c. and Information verifying the relationship between the claimed disability and the requested accommodation.

3. LANDSCAPE

Currently reads: LANDSCAPE. Plans for all landscaping shall be provided the A.R.C. for all portions of the Lot. Lot Owners are encouraged to maintain their landscape in as much of a natural environment as is practicable, preserving where practicable all trees on their respective Lots. All landscaping, including sodding the front and side yards and planting as shown on the landscape plan shall be kept and maintained thereafter for the duration of this Declaration.

Will be REMOVED IN ITS ENTIRETY.

4. VARIANCES

Currently reads: VARIANCES. The A.R.C. may issue variances from any building covenant, except set back requirements and dwelling size covering the construction or alteration of improvements on the property provided such improvements substantially comply with the provisions hereof and provided the A.R.C. acts in accordance with adopted and published guidelines and procedures.

Will be amended to read: VARIANCES. The ARC may issue a member a variance from compliance with one or more of the Associations architectural standards and be limited to unique and extraordinary circumstances that exist such as those involving topography, natural obstructions, hardship and not in conflict with governing documents. Should the requested variance be approved, it is for the requesting individual only and should not be construed that it has been approved for all Lot Owners.

5. CONDITIONS

New: CONDITIONS. Approvals made by the ARC are given in good faith and trust that the Lot owner will proceed as approved. Any deviation from this approval shall be considered a violation of the Protective Covenants and may subject a Lot owner to fines or liens and other enforcement actions by the Board of Directors of the Cypress Gates Property Owners Association. Likewise, denials are given in good faith and trust that the Lot owner will abide by the decision of the ARC.

Should a Lot owner proceed without approval it shall be considered a violation of the Protective Covenants and may subject the Lot owner to fines and other enforcement actions by the Board of Directors of the Cypress Gates Property Owners Association. Lot owners must take precautions to protect the infrastructure adjoining their property during construction or modification to their home or landscaping. Care must be taken to protect the asphalt pavement, concrete curbs and sidewalks, and the sodded areas of the street right of way when delivering or transferring materials from the street to the project site. All damage to the infrastructure must be repaired/restored by the Lot owner following construction.

6. NON-APPROVAL

New: NON-APPROVAL. If non-approval by ARC, prior to sending disapproval letter, an attempt should be made to notify the Lot Owner of the reasons for the disapproved request. Disapproval letter must include instructions on how to appeal decision at a closed board meeting.

7. INDEMNIFICATION

New: INDEMNIFICATION. Every member of the ARC shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a member of the ARC, whether or not he is a member at the time such expenses are incurred, except in such cases wherein the member is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which such member may be entitled. The ARC is not responsible for 1.) errors or omissions from the plans and specifications submitted to the ARC, 2.) supervising or inspecting construction for the Owner's compliance with approved plans and specifications, 3.) the compliance of the Owner's plans and specifications with governmental codes and ordinances, and state and federal laws.

ARTICLE VI.
LOT OWNERS ASSOCIATION

Introductory paragraph currently reads: The Developer has formed or will cause to be formed Cypress Gates Property Owners Association Inc., an Alabama non-profit corporation.

Will be amended to read: The Lot Owners Association shall be the Cypress Gates Property Owners Association, Inc., an Alabama non-profit corporation.

1. POWERS AND DUTIES

Currently reads: The operation and administration of the Common Areas of the Development shall be by the Association, membership in which shall consist of the Lot Owners only. The Association shall be a not-for-profit Alabama

corporation incorporated by Articles of Incorporation recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or nonexercise of its powers. The Association shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of Lot Owners of the Subdivision with reference to the Common Areas: and with reference to any and all other matters in which all the Lot Owners have a Common Interest. The Association shall have all the powers and duties set forth in 10-3A-1, et seq. Code of Alabama (1975), as well as all the powers and duties granted to or imposed on it under the By-Laws, the Articles and this Declaration as they be amended from time to time. The Association is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other Person or Persons. The Association shall have the right to grant permits, licenses and easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Development. The Board shall have the authority and duty to levy and enforce the collection of general and specific Assessments for Common Expenses and is further authorized to provide adequate remedies for failure to pay such Assessments.

No change.

2. MEMBERSHIP

Currently reads: MEMBERSHIP. Each Lot Owner shall be a member of the Association, so long as he is a Lot Owner. A Lot Owner's membership shall immediately terminate when he ceases to be a Lot Owner. The membership of a Lot Owner cannot be assigned or transferred in any manner except as an appurtenance to his Lot.

No change.

3. VOTING RIGHTS

Currently reads: VOTING RIGHTS. The Association shall have one (1) class of regular voting membership. Members shall be all Lot Owners (including the Developer) of Unimproved Lots and Improved Lots. Each Member who has presented to the Association satisfactory proof that such Member is an Owner of any such Lot prior to the close of business on the Record Date established in accordance with the Association's By-Laws, shall be entitled to notice of and shall be entitled to one (1) vote for each Unimproved or Improved Lot owned, which vote is not divisible, in all matters in which membership voting is authorized in this Declaration, the By-Laws, the Articles or any other rules and

regulations shall be binding upon the Association and its Members with respect to Member's voting rights.

Each member who has provided satisfactory proof of ownership as set forth above prior to the applicable Record Date, so long as such Member is not then delinquent in the payment of assessments, shall be entitled to vote any meeting of Members, or on any matter requiring a vote of Members, occurring subsequent to the date upon which the Member becomes a Lot Owner and each such Member shall be entitled to the number of votes calculated above as if each Member had been a Member for a full year and paid the Regular Annual Assessment for the year in which the vote takes place. Payment of any Special Assessment shall not entitle Members to additional votes.

When any Lot entitling the Owner thereof to membership in the Association has an Owner which is a corporation, trust, partnership, or where two or more persons are Owners, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, one officer, trustee, person or entity shall be designated the Voting Member to bind all the others. Written evidence of such designation in a form satisfactory to the Board shall be delivered to the Board prior to the exercise of a vote of such Lot Owners.

Will be amended to read: VOTING RIGHTS. The Association shall have one (1) class of regular voting membership. Members shall be all Lot Owner of Unimproved Lots and Improved Lots. Each Member who has presented to the Association satisfactory proof that such Member is an Owner of any such Lot prior to the close of business on the Record Date established in accordance with the Association's By-Laws, shall be entitled to notice of and shall be entitled to one (1) vote for each Unimproved or Improved Lot owned, which vote is not divisible, in all matters in which membership voting is authorized in this Declaration, the By-Laws, the Articles or any other rules and regulations shall be binding upon the Association and its Members with respect to Members' voting rights.

Each Member who has provided satisfactory proof of ownership as set forth above prior to the applicable Record Date, so long as such Member is not then delinquent in the payment of assessments, shall be entitled to vote at any meeting of Members, or on any matter requiring a vote of Members, occurring subsequent to the date upon which the Member becomes a Lot Owner, and each such Member shall be entitled to the number of votes calculated above as if each Member had been a Member for a full year and had paid the Regular Annual

Assessment for the year in which the vote takes place. Payment of any Special Assessment shall not entitle Members to additional votes.

When any Lot entitling the Owner thereof to membership in the Association has an Owner which is a corporation, trust, partnership, or where two or more person or entities are Owners, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, one officer, trustee, person or entity shall be designated the Voting Member to bind all the others. Written evidence of such designation in a form satisfactory to the Board shall be delivered to the Board prior to the exercise of a vote of such Lot Owners.

4. GOVERNANCE

Currently reads: GOVERNANCE. The Association shall be governed by a Board of Directors, consisting of not fewer than three (3) nor more than five (5) Members. Initially, the Board shall consist of three (3) Members, with the number in subsequent years to be determined by the Members of the Board of Directions as provided in the By-Laws.

Will be amended to read: GOVERNANCE. The Association shall be governed by a Board of Directors, consisting of not fewer than three (3) nor more than five (5) Members. Said number of Directors may be adjusted as provided in the By-Laws.

5. ELECTION TO THE BOARD OF DIRECTORS

Currently reads: ELECTION TO THE BOARD OF DIRECTORS.

- a. The Board of Directors shall be elected by the Members.
- b. In electing Directors of the Association, each Member shall be entitled to cast one (1) vote per Lot owned by such Member for each Director's position to be filled. No cumulative voting is permitted.
- c. No household shall have more than one member elected/appointed to a board or committee at the same time.

Will be amended to read: ELECTION TO THE BOARD OF DIRECTORS.

- a. The Board of Directors shall be elected by the Members.
- b. Each Board Member elected by the members shall hold office until the next annual meeting of Members and until their successor has been elected and qualified, or until their death, resignation or their removal in the manner provided in the By-Laws. In electing Directors of the

Association, each Member shall be entitled to cast one (1) vote per Lot owned by each Member for each Director's position to be filled. No cumulative voting is permitted.

6. INDEMNIFICATION

Currently reads: INDEMNIFICATION. Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approved such settlement and reimbursement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which such director or officer may be entitled.

No change.

7. LIMITATION OF LIABILITY

Currently reads: LIMITATION OF LIABILITY. Notwithstanding the liability of the Association to maintain and repair parts of the Common Areas, the Association shall not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association, nor for injury or damage caused by the elements, or other Lot Owners or Persons.

No change.

8. BY-LAWS

Currently reads: BY-LAWS. The Association and its Members shall be governed by the By-Laws.

No change.

9. QUORUM REQUIRED FOR ANY ACTION AUTHORIZED AT REGULAR OR SPECIAL MEETINGS OF THE ASSOCIATION

Currently reads: QUORUM REQUIRED FOR ANY ACTION AUTHORIZED AT REGULAR OR SPECIAL MEETINGS OF THE ASSOCIATION. The quorum required for any action which is subject to a vote of the Members at a meeting of the association shall be as follows:

With respect to any particular proposed action, the presence at the meeting of the Association of Members, in person or by proxy, entitled to cast ten percent (10%) of the total vote of the Membership shall constitute a quorum. If the required quorum is not present any such meeting, a majority of those Members entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting, from time to time, without notice other than announcement of the meeting, until the requisite number of members, present in person or by proxy, shall be present; provided, however, that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If a quorum is present, a majority of the votes which are properly voted at any meeting shall determine any matter coming before the meeting unless a different vote is required by statute, by this Declaration, by the Articles or by the By-Laws. The members at a meeting at which a quorum is once present may continue to transact business at the meeting or any adjournment thereof, notwithstanding the withdrawal of enough Members to have less than a quorum. Notwithstanding the foregoing, except with respect to an amendment effected by the Developer in order to add property to the Subdivision, no action to amend this Declaration shall be effective unless taken at a meeting at which Members entitled to cast sixty-seven percent (67%) or more of the total vote of the Membership are present, either in person or by proxy.

Will be amended to read. : QUORUM REQUIRED FOR ANY ACTION AUTHORIZED AT REGULAR OR SPECIAL MEETINGS OF THE ASSOCIATION. The quorum required for any action which is subject to a vote of the Members at a meeting of the association shall be as follows:

With respect to any particular proposed action, the presence at the meeting of the Association of Members, in person or by mail in ballot, entitled to cast ten percent (10%) of the total vote of the Membership shall constitute a quorum. If the required quorum is not present any such meeting, a majority of those Members entitled to vote thereat, present in person or by mail in ballot, shall have the power to adjourn the meeting, from time to time, without notice other than announcement of the meeting, until the requisite number of members, present in person or by proxy, shall be present; provided, however, that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If a quorum is present, a majority of the votes which are properly voted at any meeting shall determine any matter coming before the meeting unless a different vote is required by statute, by this Declaration, by the Articles or by the By-Laws. The members at a meeting at which a quorum is once present may continue to transact business at the meeting or any adjournment thereof, notwithstanding the withdrawal of enough Members to have less than a quorum. Notwithstanding the foregoing, except with respect to an

amendment affected by the Association to add property to the subdivision, no action to amend this Declaration shall be effective unless taken at a meeting at which a quorum is present and at least 51% or more voting members representing the quorum adopt the amendment by voting in person or by mail in ballot.

10. PROXIES

Currently reads: PROXIES. Each member of the Association entitled to vote may vote in person or by proxy at any meeting of the Association. Each proxy shall be executed in writing by the Member or by his duly authorized attorney-in-fact, shall state the meeting for which such proxy is given and shall be filed with the Secretary of the Association. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date.

Will be REMOVED IN ITS ENTIRETY.

11. BALLOTS BY MAIL

Currently reads: BALLOTS BY MAIL. When authorized by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for a vote of the Members and a ballot on which each Member may vote for or against the motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in this Declaration. However, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

Will be amended to read: BALLOTS BY MAIL. When authorized by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for a vote of the Members and a ballot on which each Member may vote for or against the motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in this Declaration. However, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot. Every ballot will include the following: Name, Address, Date, Signature, and an embossed seal provided by the Cypress Gates Board of Directors prior to voting.

12. PROVISIO

Currently reads: PROVISIO. Subject to the provisions herein, until the Declarant sells each Lot in Phase 1-A of the Subdivision and each Lot in any additional phase that may be added by the Declarant by amendment, the By-Laws and rules adopted by the Declarant shall govern and the Declarant and neither the Lot Owners nor the Association nor the use of the Common Areas by Lot Owners shall interfere with the completion of the contemplated improvements and the sale of the Lots. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board; but, in that event, the Declarant may require for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

The Declarant may make such use of the unsold Lots and of the Common Areas and facilities as may facilitate such completion and sale, including but not limited to showing of the Lots and the display of signs. The Declarant may maintain sales offices, management offices, leasing and operations offices, and models on any Lot of the Development or on Common Areas in the Development without restriction as to the number, size or location of said sales offices, management offices, leasing and operations offices and models. The Declarant shall be permitted to relocate said sales offices, management offices, leasing and operation offices and models from one Lot location to another or from one area of the Common Areas to another area of the Common Areas in the Development. The Declarant may maintain signs on the Common Areas advertising the Development. The rights of the Declarant as provided for in this paragraph shall cease and terminate when the Declarant relinquishes control of the Association.

Will be REMOVED IN ITS ENTIRETY.

13. AVAILABILITY OF RECORDS

Currently reads: AVAILABILITY OF RECORDS. The Association shall keep financial records sufficiently detailed to enable the Association to comply with 10-3A-43 Code of Alabama (1975). The Association shall make reasonably available in the county where the Subdivision is located for examination by Lot Owners or their authorized agents, current copies of the Declaration, Articles, By-Laws, Rules and Regulations and other books, records, financial statements and the most recent annual financial statement of the Association. Reasonably available shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

No change.

14. RESERVES FOR REPLACEMENTS

Currently reads: RESERVES FOR REPLACEMENTS. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas. The fund shall be maintained out of regular Assessments for Common Expenses.

No change.

15. ANNUAL MEETING PROCESS

New: The Annual meeting will be held the third (3rd) Saturday in April. The notification of the Annual Meeting will occur 60 days prior to the meeting. The Annual Meeting notification will include, but not be limited to:

1. Annual Meeting Date, Time and Location.
2. A request for candidates for the Board of Directors and the Architectural Review Committee. Bios should be submitted listing the candidate’s skills and qualifications no later than three (3) weeks after the Annual Meeting Notification.
3. The notification will also remind individuals that cannot attend the Annual Meeting to request their mail-in ballots. The last day to request a Mail In Ballot is two (2) weeks prior to the annual meeting, except for extenuating circumstances, and must be returned by mail and post-marked no later than one week prior to the Annual Meeting. Mail-in ballots can also be placed into a locked box located at a designated area up until the 6:00 p.m. the day prior to the meeting.

Timeline	Task	Deadline – (Example Only)
Sixty (60) days prior to Annual Meeting	<ol style="list-style-type: none"> 1. Notify Members of Annual Meeting to be held 3rd Saturday in April. 2. Request candidates for Board of Directors and Architectural Review Committee. Bios for candidates to be submitted within 3 weeks. 3. Remind Members to request Mail In Ballot, if unable to attend the Annual Meeting. 	February 15, 2023
3 weeks after Annual Meeting Notification	Bios Due for Board of Directors and Architectural Review Committee.	March 8, 2023

4 weeks after Annual Meeting Notification	Final Date to Request Mail In Ballots	March 15, 2023
4 weeks and 4 days after Annual Meeting Notification	Mail out the Mail In Ballots	March 18, 2023
5 weeks after Annual Meeting Notification	Mail out Meeting Agenda and Bios	March 22, 2023
2 weeks prior to Annual Meeting	Last date to request Mail In Ballot	April 1, 2023
1 week prior to Annual Meeting	Mail In Ballots must be post-marked no later than 1 week prior to Annual Meeting.	April 8, 2023
Annual Meeting	Annual Meeting Held.	April 15, 2023

ARTICLE VII.
MEMBERS’ RIGHTS IN THE COMMON AREAS

1. MEMBER’S EASEMENTS OF ENJOYMENT IN COMMON AREAS

Currently reads: MEMBER’S EASEMENTS OF ENJOYMENT IN COMMON AREAS. Subject to the provisions of this Declaration, the rules and regulations of the association, and any fees or charges established by the Association, every Member and every guest or lessee of such Member shall have an easement of enjoyment in and to the Common areas in the Subdivision, and such easement shall be appurtenant to and shall pass with the title to every Lot. A Member’s or lessee’s spouse and children who reside with such Member or lessee in the Development shall have the same easement of enjoyment hereunder as a Member. The easement of enjoyment herein shall pass from a Member to a lessee during the lease term; provided, however, the Association may adopt additional restrictions to its rules and regulations limiting the easement of enjoyment of guests and lessees, including, but not limited to the specification of minimum lease terms, the number of guests allowed, or the prohibition or use by lessees or guests as to specific Association properties.

No change.

2. TITLE TO COMMON AREAS

Currently reads: TITLE TO COMMON AREAS. The Developer has or will convey the Common Areas, or any part or parts thereof, including without limitation the retention pond area(s) by statutory warranty deed to the Association, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance. The Association shall be required to accept such conveyance of the Common Areas

and shall, after such conveyance, immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors subject to this Declaration. The Common Areas shall also be conveyed subject to all easements and restrictive covenants of record at the time of conveyance and the rights that others may have to use certain Common Areas.

No change.

3. EXTENT OF MEMBERS' EASEMENTS

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

- a. the right of the Association, in accordance with its By-Laws, to place mortgages or other encumbrances on the Common Areas as security for borrowings by the Association;
- b. the right of the Association, in accordance with its By-Laws, to take such steps as are reasonably necessary to protect Common areas against foreclosures;
- c. the right of the Association, in accordance with its By-Laws, to suspend the voting rights and easements of enjoyment of any Member lessee or guest of any Member for any period during which the payment of any assessment against the property owned by such Member is delinquent, and for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members' obligation to pay such assessment, and provided that the Association shall not suspend the right to use any roadways belonging to the Association although such use shall be subject to the rules and regulations established by the Association for such use;
- d. the right of the Association, in accordance with its By-Laws, and subject to the general covenants, to place any reasonable restrictions upon the use of the roadways shown on the plat as being within the Development, subject to a Lot Owner's or lessee's right of ingress and egress, including, but not limited to the types and sizes of the vehicles permitted to use said roadways, the maximum and minimum speeds of vehicles using said roadways, all other necessary traffic and parking regulations, and the maximum noise level of vehicles using said roadway. The fact such

restrictions on the use of the roadways shall be more restrictive than the laws of a state or local government shall not make such restrictions unreasonable.

- e. the right of the Association, in accordance with its By-Laws, to adopt and publish rules and regulations governing the use of the Common areas, and the conduct of Members, their lessees or guests, and to establish penalties for the infraction of such rules and regulations.
- f. the right of the Developer, or the Association, in accordance with its By-Laws, to dedicate or transfer to any public or private utility company, utility or drainage easements on, over or under any part of the Common Areas;
- g. the right of the Association, in accordance with its By-Laws, to give or sell all or any part of the Common Areas including a leasehold interest, to any public agency, public authority, public service district, utility company or private concern for such purposes and subject to such condition as may be agreed to by the Members, provided that no such gift of sale or determination as to the purposes or as to the conditions shall be authorized by the affirmative vote of at least two-thirds (2/3) of the votes cast at a duly constituted meeting of the Association. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the Present or Vice President and Secretary or Assistant Secretary of the association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Areas prior to the recording thereof. Such certificates shall be conclusive evidence of Authorization by the Members;
- h. restrictions and limitations affecting later updates, if any, as set forth in this Declaration as it may be later amended by the Declarant; and
- i. the rights that others may have to use Common Areas.

Will amend to read: EXTENT OF MEMBERS' EASEMENTS. The easements of enjoyment created hereby shall be subject to the following:

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

- b. the right of the Association, in accordance with its By-Laws, to take such steps as are reasonably necessary to protect Common Areas against foreclosures;
- c. the right of the Association, in accordance with its By-Laws, to suspend the voting rights and easements of enjoyment of any Member lessee or guest of any Member for any period during which the payment of any assessment against the property owned by such Member is delinquent, and for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members' obligation to pay such assessment, and provided that the Association shall not suspend the right to use any roadways belonging to the Association although such use shall be subject to the rules and regulations established by the Association for such use;
- d. the right of the Association, in accordance with its By-Laws and subject to the general covenants, to place any reasonable restrictions upon the use of the roadways shown on the Plat as being within the Development, subject to a Lot Owner's or lessee's right of ingress and egress, including, but not limited to the types and sizes of the vehicles permitted to use said roadways, the maximum and minimum speeds of vehicles using said roadways, all other necessary traffic and parking regulations, and the maximum noise level of vehicles using said roadway. The fact such restrictions on the use of the roadways shall be more restrictive than the laws of a state or local government shall not make such restrictions unreasonable;
- e. the right of the Association, in accordance with its By-Laws, to adopt and publish rules and regulations governing the use of the Common Areas, and the conduct of Members, their lessees or guests, and to establish penalties for the infraction of such rules and regulations;
- f. the right of the Association in accordance with its By-Laws, to dedicate or transfer to any public or private utility company, utility or drainage easements on, over or under any part of the Common Areas;
- g. the right of the Association, in accordance with its By-Laws, to give or sell all or any part of the Common Areas including a leasehold interest, to any public agency, public authority, public service district, utility company or private concern for such purposes and subject to such conditions as may

be agreed to by the Members, provided that no such gift of sale or determination as to the purposes or as to the conditions thereof shall be effective unless such gift, sale or determination as to the purposes or as to the conditions shall be authorized by the affirmative vote of at least sixty-seven percent (67%) of the total votes available to the Membership, either in person or by proxy, at a meeting called for that purpose. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President, and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Areas prior to the recording thereof. Such certificates shall be conclusive evidence of Authorization by the Members;

- h. restrictions and limitations affecting later phases, if any, as set forth in this Declaration as it may be later amended by the Declarant; and
- i. the rights that others may have to use Common Areas.

ARTICLE VIII.
COVENANTS FOR ASSESSMENTS

1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS

Currently reads: CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS. Each Lot Owner, except the Developer, whether or not is shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Developer or the association as provided below the following: (1) annual assessments or charges (“Annual Assessment” or “Regular Assessment”); and (2) special assessments or charges for the purposes set forth in this Article (“Special Assessment”), both such assessments to be fixed, established and collected from time to time as provided for herein and in the By-laws. The Annual and Special Assessments and interest thereon from the date of the delinquency, along with all costs of collection, including, without limitation, attorney’s fees, and additional charges as set for herein and in the By-laws, shall be a charge and continuing lien on the Lot and improvements thereon against which each such assessment or charge is made. A penalty in an amount to be determined annually by the Board of Directors of the Association and consistently applied may also be added to such late assessment or charge, which shall further become a lien on the Lot and improvements thereon against which each such assessment or charge is made and collected in the same manner as the delinquent assessments. Each such assessment and penalty, if any, together with interest thereon at the maximum percentage rate as may

then be permitted under the laws of the State of Alabama from the date of delinquency until collected (unless waived by the Board), and the cost of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the Lot Owner of such real property at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot, all of such co-owners be jointly and severally liable for the entire amount of the assessment, interest, penalties and costs of collection. In the event an Owner of a Lot does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association may foreclose the Lien encumbering the Lot created by non-payment of the required moneys in the same fashion as mortgage liens on real estate are foreclosed; provided that thirty (30) days prior notice of the intention to foreclose shall be mailed, postage prepaid, to the Lot Owner and to all persons having a mortgage lien or other interest of record. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the Lot at a foreclosure sale and to acquire, hold, mortgage and convey the same. In addition to foreclosing its lien, the Association may bring suit to recover a money judgment for all sums, charges, assessments or penalties due, including interest, brought by or behalf of the Association against a Lot Owner and also to recover the costs thereof, together with a reasonable attorney's fee. Unless otherwise provided by the Board of Directors, Annual Assessments shall be due and payable on a pro rata basis with one-twelfth (1/12) of the Annual Assessment due on the first day of each month for the year in which the Annual Assessment is charged.

If the Association becomes the Owner of a Lot by reason of foreclosure, it shall offer said Lot for sale, and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments, including, without limitation, interest and penalties and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the re-sale of the Lot, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the Lot in question. All moneys remaining after deducting the foregoing items of expenses shall be returned to the former Owner of the Lot in question.

DSLH Homes, LLC shall not pay annual or special assessments on any home or Lot in the Subdivision.

Cypress Gates POA dues/assessments shall begin upon DSLH Homes, LLC sale of a home to a 3rd party.

Will be amended to read: CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS. Each Lot Owner, whether or not it

shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association as provided below the following: (1) annual assessments or charges ("Annual Assessment" or "Regular Assessment"); and (2) special assessments or charges for the purposes set forth in this Article ("Special Assessment"), both such assessments to be fixed, established and collected from time to time as provided for herein and in the By-laws. The Annual and Special Assessments and interest thereon from the date of the delinquency, along with all costs of collection, including, without limitation, attorney's fees, and additional charges as set forth herein and, in the By-laws, shall be a charge and continuing lien on the Lot and improvements thereon against which each such assessment or charge is made. A penalty in an amount to be determined annually by the Board of Directors of the Association and consistently applied may also be added to such late assessment or charge, which shall further become a lien on the Lot and improvements thereon against which each such assessment or charge is made and collected in the same manner as the delinquent assessments. Each such assessment and penalty, if any, together with interest thereon at the maximum percentage rate as may then be permitted under the laws of the State of Alabama from the date of delinquency until collected (unless waived by the Board), and the cost of collection thereof, including reasonable attorney fees, shall also be the personal obligation of the Lot Owner of such real property at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot, all such co-owners shall be jointly and severally liable for the entire amount of the assessment, interest, penalties, and costs of collection. In the event an Owner of a Lot does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association may foreclose the Lien encumbering the Lot created by non-payment of the required moneys in the same fashion as mortgage liens on real estate are foreclosed; provided that thirty (30) days prior notice of the intention to foreclose shall be mailed, postage prepaid, to the Lot Owner and to all persons having a mortgage lien or other interest of record. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the Lot at a foreclosure sale and to acquire, hold, mortgage and convey the same. In addition to foreclosing its Lien, the Association may bring suit to recover a money judgment for all sums, charges, assessments or penalties due, including interest, brought by or on behalf of the Association against a Lot Owner, and also to recover the costs thereof, together with a reasonable attorney's fee. Unless otherwise provided by the Board of Directors, Annual Assessments shall be due and payable on the first day of year in which the Annual Assessment is charged.

If the Association becomes the Owner of a Lot by reason of foreclosure, it shall offer said Lot for sale, and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments, including, without limitation, interest and penalties, and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the re-sale of the Lot, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the Lot in question. All moneys remaining after deducting the foregoing items of expenses shall be returned to the former Owner of the Lot in question.

2. **PURPOSE OF THE ASSESSMENTS AND PAYMENT TO DEVELOPER**
Currently reads: PURPOSE OF THE ASSESSMENTS AND PAYMENT TO DEVELOPER. Notwithstanding any provision contained herein, until such time that the Developer has in fact conveyed to the Association all of the Common Areas, all assessments of any nature provided for herein shall be due and payable to the Developer, its successors and/or assigns, and all rights hereby established on behalf of the Association, including all remedies in the event of default by a Lot Owner, shall accrue to the benefit of the Developer. The assessments levied by the Association or the Developer shall be used exclusively for the improvement, replacement, maintenance, repair, enhancement, enlargement and operation of the recreational amenities, common landscaping, roadways, paths, boardwalks, bridges, security systems, patrols and gates, insect control, vegetation control, drainage systems and similar purposes which are for the benefit of Lot Owners, including Common Areas, and to provide all services which the Developer or Association is authorized to provide hereunder; including, but not limited to, payment of taxes and insurance, costs of labor and equipment, erosion control devices, materials, management supervision, accounting and Lot Owner information services, repayment of loans and such other action as is necessary to carry out its authorized functions. Such assessments shall not be used to maintain or repair any property not belonging to the Association or comprising a portion of the Common Areas.

Will be amended to read: PURPOSE OF THE ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the improvement, replacement, maintenance, repair, enhancement, enlargement and operation of the recreational amenities, common landscaping, roadways, paths, boardwalks, bridges, security systems, patrols and gates, insect control, vegetation control, drainage systems and similar purposes which are for the benefit of Lot Owners, including Common Areas, and to provide all services which the Association is authorized to provide hereunder; including, but not limited to, payment of taxes and insurance, costs of labor and equipment, erosion control devices, materials, management supervision,

accounting and Lot Owners information services, repayment of loans and such other action as is necessary to carry out its authorized functions. Such assessments shall not be used to maintain or repair any property not belonging to the Association or comprising a portion of the Common Areas.

3. APPLICATION OF "MAXIMUM" ASSESSMENT

Currently reads: APPLICATION OF "MAXIMUM" ASSESSMENT. The annual assessments, as set forth in the schedule herein below, and as annually increased pursuant to the provisions of subparagraph (c) below shall be levied by the Association or by the Developer pursuant to this Declaration. If, however, the Board of Directors of the Association, by majority vote, determine that the important and essential functions of the Association may be properly funded by annual assessments less than those set out below, it may levy such lesser assessments. However, so long as the Developer is engaged in the Development of properties which are subject to the terms of this Declaration, the Association may not reduce annual assessments below those set out in subparagraph (a) of this section without prior written consent of the Developer. The levy of annual assessments less than the maximum regular annual assessments in one (1) year shall not affect the Board's right to levy the maximum regular annual assessments in subsequent years. If the Board of Directors shall levy less than the maximum regular annual assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments.

- a. The maximum regular annual assessment shall be the sums determined by the Board of Directors. The regular annual assessment for the year ending December 31, 2006, is Two Hundred and No/100ths Dollars (\$200.00).
- b. All assessments charged by the Association shall be rounded to the nearest dollar.
- c. The maximum regular annual assessment for Improved Lots for Unimproved Lots may be increased, adjusted or reduced from year to year by the Board of Directors of the Association as the Board its sole judgement, may require.

Will be amended to read: APPLICATION OF "MAXIMUM" ASSESSMENT. The annual assessments, as set forth in the schedule hereinbelow, and as annually increased pursuant to the provisions below, shall be levied by the Association pursuant to this Declaration. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by annual assessments

less than those set out below, it may levy such lesser assessments. The levy of annual assessments less than the maximum regular annual assessments in one (1) year shall not affect the Board's right to levy the maximum regular annual assessments in subsequent years. If the Board of Directors shall levy less than the maximum regular annual assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments.

- a. The maximum regular annual assessment shall be the sums determined by the Board of Directors.
- b. All assessments charged by the Association shall be rounded to the nearest dollar.
- c. The maximum regular annual assessment for Improved Lots and for Unimproved Lots may be increased, adjusted or reduced from year to year by the Board of Directors of the Association as the Board in its sole judgement, may require.

4. SPECIAL ASSESSMENT FOR IMPROVEMENTS AND ADDITIONS
Currently reads: SPECIAL ASSESSMENT FOR IMPROVEMENTS AND ADDITIONS. In addition to the maximum regular annual assessment authorized herein, the Association may also levy special assessments against the Lot Owners for the following purposes:

- a. construction or reconstruction, repair or replacement of capital improvements upon the Common Areas including the necessary fixtures and personal property related thereto;
- b. additions to the Common Areas;
- c. facilities and equipment required to offer the services authorized herein;
- d. repayment of any loan made to the Association to enable it to perform the duties and functions authorized herein.

The proportion of each special assessment to be paid to the Lot Owners of the assessable property shall be equal to their respective proportions of the annual assessments made for the assessment year during which such special assessments are levied.

Will be amended to read: SPECIAL ASSESSMENT FOR IMPROVEMENTS AND ADDITIONS. In addition to the maximum regular annual assessment authorized herein, the Association may also levy special assessments against the Lot Owners for the following purposes:

- a. construction or reconstruction, repair or replacement of capital improvements upon the Common Areas including the necessary fixtures and personal property related thereto;
- b. additions to the Common Areas;
- c. facilities and equipment required to offer the services authorized herein;
- d. repayment of any loan made to the Association to enable it to perform the duties and functions authorized herein.

The proportion of each special assessment to be paid to the Lot Owners of the assessable property shall be equal to their respective proportions of the annual assessments made for the assessment year during which such special assessments are levied.

5. RESERVE FUNDS

Currently reads: RESERVE FUNDS. The Association may establish reserve funds from its annual assessments to be held in an interest-bearing account or in obligations of the United States, State of Alabama, or any agency of either, or in Triple-A debt, or in prime commercial paper with a maturing of not more than nine (9) months, as a reserve for:

- a. major rehabilitation or major repairs;
- b. emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss;
- c. recurring periodic maintenance;
- d. initial costs of any new service to be performed by the Association.

Will be amended to read: RESERVE FUNDS. The Association may establish reserve funds from its annual assessments to be held in reserve in an interest-bearing account or in obligations of the United States, State of Alabama, or any agency of either, or in Triple-A debt, or in prime commercial paper with a maturity of not more than nine (9) months, as a reserve for:

- a. major rehabilitation or major repairs;
- b. emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss;
- c. recurring periodic maintenance; and
- d. initial costs of any new service to be performed by the Association.

6. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS

Currently reads: DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. Notwithstanding anything in foregoing to the contrary, the annual assessments provided for herein shall commence on January 1, 2006, the annual assessment for the year 2006 shall be due and payable on the date the Lot is purchased.

No change.

7. DUTIES OF THE BOARD OF DIRECTORS

Currently reads: DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot, in accordance with the assessment schedule as provided hereinabove, and shall at that time direct the preparation of an index of the properties and assessments applicable thereto which shall be sent promptly to every Member subject thereto.

The Association shall upon written demand from any Lot Owner at any time furnish to such Lot Owner liable for any assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Lot Owner of Payment of any assessment therein stated to have been paid.

No change.

8. SUBORDINATION OF THE LIEN OR MORTGAGE

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

foreclosure, the title acquired by the purchaser of such property be subject to the lien of such subsequent assessments.

No change.

9. EXEMPT PROPERTY

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

- a. the Developer and any Lot(s) owned by the Developer;
- b. the Grantee in conveyance made for the purpose of granting utility and drainage easements;
- c. the Common Areas; and
- d. property which is used in the maintenance and service of facilities within Common Areas, or by non-profit, governmental or charitable institutions.

Will be amended to read: EXEMPT PROPERTY. The following property, individuals, partnerships or corporations subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- a. the Grantee in conveyances made for the purpose of granting utility and drainage easements;
- b. the Common Areas;
- c. and property which is used in the maintenance and service of facilities within Common Areas, or by non-profit, governmental or charitable institutions.

10. ANNUAL STATEMENTS

Currently reads: ANNUAL STATEMENTS. The President, Treasurer or such other officer may have custody of the funds of the Association, within ninety (90) days after the close of each fiscal year of the Association, shall prepare and execute general itemized statements as of the close of such fiscal year showing the actual assets and liabilities of the Association, and a statement of revenues, costs and expenses. The name of any creditor to which an amount of more than Two Hundred Fifty and No/100ths Dollars (\$250.00), is owed by the Association, and a statement of revenues, costs and expenses. The name of any creditor to the Association shall be set out in such statement. The Association shall furnish to each Member of the

Association who may make a request therefor in writing, a copy of such statement within thirty (30) days after receipt of such request. Such copies may be furnished to the Member either in person or by mail.

Will be amended to read: ANNUAL STATEMENTS. The President, Treasurer or such other officer that may have custody of the funds of the Association, within ninety (90) days after the close of each fiscal year of the Association, shall prepare and execute general itemized statements as of the close of such fiscal year showing the actual assets and liabilities of the Association, and a statement of revenues, costs and expenses. The name of any creditor to which an amount of more than Two Hundred Fifty and No/100ths Dollars (\$250.00), is owed by the Association, and a statement of revenues, costs and expenses. The name of any creditor to the Association shall be set out in such statement. The Association shall furnish to each Member of the Association who may make a request therefor in writing, a copy of such statement within thirty (30) days after receipt of such request. Such copies may be furnished to the Member either in person or by mail.

11. ANNUAL BUDGET

Currently reads: ANNUAL BUDGET. The Board of Director shall prepare or cause to be prepared a proposed annual budget for each upcoming fiscal year of the Association. Within thirty (30) days after adoption of any proposed budget for the upcoming fiscal year, the Board shall provide a copy of the budget to all Property Owners outlining anticipated receipts and expenses for such fiscal year. The financial books of the Association shall be available for inspection by all Members at the office of the Association at all reasonable times.

No change.

ARTICLE IX FUNCTIONS OF ASSOCIATION

1. OWNERSHIP AND MAINTENANCE OF COMMON AREAS

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

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

2. SERVICES

Currently reads: SERVICES. The Association shall be authorized, but not required, to provide the following services which shall not limit or affect any services provided by any municipality, county, state or federal agency:

- a. employment of a manager, an independent contractor, or such other employees as are necessary to perform services for the Association;
- b. cleanup and maintenance of all roadways, road medians and Common Areas within the Subdivision and also public properties which are located within or in a reasonable proximity to the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole;
- c. landscaping and landscape maintenance of roadways, sidewalks, walking and bicycle paths, and any Common Areas;
- d. lighting of roadways, sidewalks and paths thorough the Subdivision;
- e. administrative services, including but not limited to legal, accounting and financial services; and communication services informing Members of activities, notice of meetings, referenda and other matters incident to the above listed services;
- f. liability and hazard insurance covering improvements and activities on the Common Areas;
- g. water, sewage and any necessary utility services not provided by a public body, private utility or the Developer;
- h. maintenance of water pollution and shoreline erosion abatement measures;
- i. exercise of any rights reserved by the Developer and transferred by the Developer to the Association including, but not limited to, all rights and functions of the Developer under the general Covenants;
- j. taking of any and all actions necessary in the discretion of the Board of Directors to enforce this Declaration and all other covenants and restrictions authorized by the Board of Directors.

Will be amended to read: SERVICES. The Association shall be authorized, but not required, to provide the following services which shall not limit or affect any services provided by any municipality, county, state or federal agency:

- a. employment of a manager, an independent contractor, or such other employees as are necessary to perform services for the Association;
- b. cleanup and maintenance of all roadways, road medians and Common Areas within the Subdivision and also public properties which are located within or in a reasonable proximity to the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole;
- c. landscaping and landscape maintenance of roadways, sidewalks, walking and bicycle paths, and any Common Areas;
- d. lighting of roadways, sidewalks and paths through the Subdivision;
- e. administrative services, including but not limited to legal, accounting and financial services; and communication services informing Members of activities, notice of meetings, referenda and other matters incident to the above listed services;
- f. liability and hazard insurance covering improvements and activities on the Common Areas;
- g. water, sewage and any necessary utility services not provided by a public body or a private utility;
- h. maintenance of water pollution and shoreline erosion abatement measures; ;
- i. taking of any and all actions necessary in the discretion of the Board of Directors to enforce this Declaration and all other covenants and restrictions authorized by the Board of Directors.

3. REDUCTION OF SERVICES

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

No change.

4. OBLIGATIONS OF THE ASSOCIATION

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

No change.

5. MORTGAGE AND PLEDGE

Currently reads: MORTGAGE AND PLEDGE. The Board of Directors of the Association have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association to perform its authorized functions. The Developer may make loans to the Association, subject to approval by the Developer of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the maximum regular annual assessments at any time there are any outstanding amounts owing the Developer from loans made by the Developer to the Association.

Will be amended to read: MORTGAGE AND PLEDGE. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association to perform its authorized functions.

6. TRANSFER OF AUTHORITY

Currently reads: TRANSFER OF AUTHORITY. This Declaration provides the Developer with various controls and rights, to be exercised (if at all) at the discretion of the Developer. This Declaration further provides that any of the Developer's rights and powers set forth herein may be specifically assigned to the Association. In the event that such powers are assigned of record to the Association, the Association shall promptly provide for appropriate procedures to perform its obligations pursuant to the powers transferred to it.

Will be REMOVED IN ITS ENTIRETY.

**ARTICLE X
AMENDMENT**

1. PLANS

Currently reads: PLANS. The Declarant shall have the right to amend or alter the Subdivision plans as long as it has control of the Association.

No change.

2. DECLARATION

Currently reads: DECLARATION.

- a. By the Declarant. The Declarant shall have the right to amend this Declaration without the approval of the Association or any Lot Owner so long as it owns a Lot in the Subdivision.
- b. By the Association. Once the Declarant has sold all of the Lots in the Subdivision, the Association shall have the right to amend this Declaration upon the agreement of Members, present in person or by proxy, entitled to cast sixty-seven percent (67%) or more of the votes available to the Members at any meeting called for that purpose.

No change.

**ARTICLE XI
MISCELLANEOUS**

1. COVENANTS, CONDITIONS AND RESTRICTIONS

Currently reads: COVENANTS, CONDITIONS AND RESTRICTIONS. All provisions of the Subdivision Documents shall to the extent applicable, and unless otherwise expressly therein provided to the contrary, be perpetual and be construed to be covenants running with the Subdivision, the Property, the Lots and with every part thereof and interest therein; and all of the provisions of the Development Documents shall be binding on and inure to the benefit of any Lot Owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but said provisions are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All Lot Owners shall be subject to and shall comply with the provisions of the Subdivision Documents and any rules and regulations promulgated thereunder.

No change.

2. SEVERABILITY

Currently reads: SEVERABILITY. The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase, word or other provision of this Declaration, the Articles, the By-Laws, any rules and regulations of the Association promulgated pursuant thereto, and any exhibits attached hereto, as the same may be amended from time to time, or the invalidity in whole or in part of the application of any such covenant, restriction, paragraph, subparagraph, sentence, clause, phrase, word or other provision shall not affect the remaining portions thereof.

No change.

3. NOTICE

Currently reads: NOTICE.

The following provisions shall govern the construction of the Subdivision Documents, except as may be specifically provided to the contrary herein: All notices required or desired under the Subdivision Documents to be sent to the Association shall be delivered in person or sent by first-class mail to the address of the Association, which may be designated from time to time by notice in writing to all Lot Owners. All notices to any Lot Owner shall be delivered in person or sent by first-class mail to the address of such Lot Owner at the Subdivision, or to such other address as he may have designated from time to time, in a writing to the Association. Proof of such mailing or personal delivery to a Lot Owner by the Association may be provided by the affidavit of the Person or by a post office certificate of mailing. All notices to the Association by a Lot Owner shall be deemed to have been given when delivered to the addressee in person or by a post office certificate of mailing of the date of the mailing.

The following provisions shall govern the construction of the Subdivision Documents, except as maybe specifically provided to the contrary herein: All notices required or desired under the Subdivision Documents to be sent to the Association shall be delivered in person or sent by first-class mail to the address of the Association, which may be designated from time to time by notice in writing to all Lot Owners. All notices to any Lot Owner shall be delivered in person or sent by first-class mail to the address of such Lot Owner at the Subdivision, or to such other address as he may have designated from time to time, in a writing to the Association. Proof of such mailing or personal delivery to a Lot Owner by the Association may be provided by the affidavit of the Person or by a post office certificate of mailing.

All notices to the Association by a Lot Owner shall be deemed to have been given when delivered to the addressee in person or by a post office certificate of mailing of the date of the mailing.

No change.

4. GOVERNING LAW AND ARBITRATION

Currently reads: GOVERNING LAW AND ARBITRATION. Any dispute or litigation arising between any of the parties concerning matters, rights or duties affected or determined by the Subdivision Documents, shall be governed by the laws of the State of Alabama, and such dispute, disagreement, or question between the parties, including any between the Association and Declarant, except a dispute concerning the filing or enforcement of a lien by the Association against a Lot and the collection of Assessments and other charges as provided for elsewhere in this Declaration, shall be submitted to arbitration under the Rules of the American Arbitration Association unless the concerned parties other agree in writing. The arbitrator(s) shall render a decision which shall be binding on all parties to the arbitration, based on traditional and standard interpretation of the laws of the State of Alabama. Except as to the enforcement of liens and the collection of Assessments and other charges, all parties subject to this Declaration forego all right to take legal action thereunder except to enforce any arbitration award, which award shall be a condition precedent to any right of legal action that any party may have against the other. It shall be deemed that each party who takes title subject to this Declaration stipulates that this Declaration, the Subdivision and contracts arising from and related to the same have a substantial effect on interstate commerce.

Will be amended to read: GOVERNING LAW AND ARBITRATION. Any dispute or litigation arising between any of the parties concerning matters, rights or duties affected or determined by the Subdivision Documents, shall be governed by the laws of the State of Alabama, and such dispute, disagreement, or question between the parties, including any between the Association and Declarant, except a dispute concerning the filing or enforcement of a lien by the Association against a Lot and the collection of Assessments and other charges as provided for elsewhere in this Declaration, shall be submitted for binding arbitration unless the concerned parties other agree in writing. The arbitrator(s) shall render a decision which shall be binding on all parties to the arbitration, based on traditional and standard interpretation of the laws of the State of Alabama. Except as to the enforcement of liens and the collection of Assessments and other charges, all parties subject to this Declaration forego all right to take legal action

thereunder except to enforce any arbitration award, which award shall be a condition precedent to any right of legal action that any party may have against the other. It shall be deemed that each party who takes title subject to this Declaration stipulates that this Declaration, the Subdivision and contracts arising from and related to the same have a substantial effect on interstate commerce.

5. WAIVER

Currently reads: WAIVER. No provisions contained in the Subdivision Documents or any rules and regulations promulgated by the Board shall be deemed to have been waived by reason or any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

No change.

6. RATIFICATION

Currently reads: RATIFICATION. Each Lot Owner, be reason of having acquired ownership of his Lot, whether by purchase, gift operation of law or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Subdivision Documents, and any Rules and Regulations promulgated thereunder, are fair and reasonable in all material respects.

No change.

7. CAPTIONS.

Currently reads: CAPTIONS. The captions used in the Subdivision Documents are inserted solely as a matter of convenience and reference and shall not be relied on and/or used in construing the effect or meaning of any of the text of the Subdivision Documents.

No change.

8. ENFORCEMENT

Currently reads: ENFORCEMENT. In the event any Lot Owner fails to comply with any provision contained in this Declaration, the By-Laws, or the Articles, the Association, through its Board of Directors, shall have the right to enforce such provision by any means available at law or in equity, including, without limitation, the right to impose a fine on the Lot owned by the non-complying party. If a fine is imposed, such fine may be collected in the same manner provided for the collection of Assessments set forth in this Declaration and in the By-laws.

Will be amended to read: ENFORCEMENT. In the event any Lot Owner fails to comply with any provision contained in this Declaration, the By-laws, or the Articles, the Association, through its Board of Directors, shall have the right to enforce such provision by any means available at law or in equity, including, without limitation, the right to impose a fine on the Lot owned by the non-complying party. If a fine is imposed, such fine maybe collected in the same manner provided for the collection of Assessments set forth in this Declaration and in the By-laws.

The following procedures will apply to violations:

- a. When a complaint/violation occurs a member of the board and another person will attempt to discuss the issue(s) with the offender. The offender will be given ten days to correct the issue(s). Also, the board member will write a Memorandum of Record to be placed into the file.
- b. After 10 days from the date on the Memorandum of Record if offender has not corrected the issue(s) the board will send first letter to the offender stating once again the issue to be corrected and state the covenant which has been violated with the following statements: If you disagree with this letter, you have the right to request a hearing on the matter by contacting cypressgatesboard@gmail.com or send a letter to Cypress Gates Board, P.O. Box 1652, Foley, AL 36536 within 7 days from the date of this letter. Failure to comply within 10 days and bring your property into full compliance may result in further action against you or your property and may include fines, fees, penalties, assessments and/or liens.
- c. After 10 (ten) days from the date on the first letter if the issue(s) have not been addressed the offender will be sent a second letter stating again what covenants have been violated and stating the following: You have ten (10) days from the date of this letter to comply with ARC guidelines. Therefore, please be advised of the Board of Directors intent to assess your property in an amount not to exceed \$25.00 per day for each day of non-compliance thereafter. Additionally, the governing body may take action to bring the property under compliance and you may be held liable for such costs incurred to do so.
- d. After 10 (ten) days from the date on the second letter if violator still has not addressed the issue a third and final letter will be sent stating: Please be advised this is your third and final notice of non-compliance. On (date of 1st notice) and (date of 2nd notice) the (board/arc) notified you of an issue of non-compliance. As of the date of this letter, the issue has not

been resolved and your property continues under non-compliance. Per the governing body, the POA has the authority to place a lien on your property to bring it under full compliance and you may be held liable for such costs.

9. COSTS AND ATTORNEY'S FEES

Currently reads: COSTS AND ATTORNEY'S FEES. In any proceeding arising because of an alleged default under any of the provisions of the Subdivision Documents by a Lot Owner or any failure to comply with any of the provisions of the Subdivision Documents by a Lot Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be awarded by the Court or Arbitrator.

No change.

10. CONFLICTING PROVISIONS

Currently reads: CONFLICTING PROVISIONS. In the event of any conflict between the provisions of this Declaration, the By-Laws or the Articles, this Declaration shall govern.

No change.

October 16, 2023

IN WITNESS WHEREOF, we, being all the Directors of **CYPRESS GATES PROPERTY OWNERS' ASSOCIATION, INC.**, have hereunto set our hands this 28th day of November 2023.

Lewis Hulin
Lewis Hulin, President

Troy Holt
Troy Holt, Vice President

Patty Toney
Patty Toney, Secretary

Peggy Boutte
Peggy Boutte, Treasurer

Debra Grissom
Debra Grissom, Member at Large

STATE OF ALABAMA
COUNTY OF BALDWIN

I, Kaeylarae Watson, a Notary Public, in and for said County in said State, hereby certify that each of LEWIS HULIN, TROY HOLT, PATTY TONEY, PEGGY BOUTTE and DEBRA GRISSOM, as president, vice president, secretary, treasurer and board member at large of **Cypress Gates Property Owners Association, INC.**, an Alabama Not-for-Profit Corporation are each signed to the foregoing conveyance and that each of them is known to me, and that each of them acknowledged before me on this day that, being informed of the contents of the conveyance, each of them, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 28th day of November 2023.

Kaeylarae Watson

Notary Public, State of Alabama
My Commission Expires Feb 16, 2026

(SEAL)

