

STATE OF ALABAMA)

JEFFERSON COUNTY)

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**DECLARATION
OF PROTECTIVE COVENANTS,
RESTRICTIONS, EASEMENTS, RIGHTS AND LIENS
CHESHIRE PARC**

KNOWN ALL MEN BY THESES PRESENTS, That:

WHEREAS, FORESIGHT DEVELOPMENT, L.L.C., an Alabama limited liability company ("Development") owns certain land in Jefferson County, Alabama (hereinafter sometimes referred to as the "Subject Property"), more particularly described as Cheshire Parc, as recorded in Map Book 41, page 3, in the Probate Office of Jefferson County, Alabama; and

WHEREAS, Developer desires to establish certain protective covenants with respect to the Subject Property as set forth herein, which protective covenants will run with the Subject Property and be binding on all parties having any right, title or interest in the Subject Property or any part thereof, their heirs, successors and assigns and shall insure to the benefit of each owner thereof;

WHEREAS, Developer may acquire additional land in Jefferson County adjacent, or in close proximity, to the Subject Property, and may, at Developer's discretion without any requirement to do so, subject additional land or portions thereof to this Declaration of Protective Covenants Restrictions, Easements, Rights, and Liens at which time the additional land will become a part of the Subject Property.

NOW, THEREFORE, Developer does hereby declare that the Subject Property shall hereafter be subject to the following restrictions, conditions, exceptions, liens, and protective covenants, to-wit:

ARTICLE I

DEFINITIONS

- 1.1 Articles.** The Articles of Incorporation of the Association.
- 1.2 Association.** Cheshire Parc Homeowner's Association, LLC., its successors and assigns (the Articles of Incorporation and Bylaws for which are recorded in the Office of the Judge of Probate of Jefferson County, Alabama, concurrently herewith).
- 1.3 Association Land.** That part of the Subject Property, which may at any time hereafter, be owned by the Association for so long as the Association or successor thereof may be the owner thereof.
- 1.4 Board.** The Board of Directors of the Association.
- 1.5 Bylaws.** The Bylaws of the Association.
- 1.6 Builder.** A builder licensed under the laws of the State of Alabama to construct residential dwellings.
- 1.7 Common Areas.** Those portions of the Subject Property which are conveyed to the Association by deed or other conveyance or which are defined or designated as Common Areas pursuant to this Declaration or by notation on record map or plat of the Subject Property. This will refer to all real property (including any improvements thereon and appurtenances thereto) owned by or conveyed to the Association for the common use and enjoyment of the owners lots in CHESHIRE PARC, and any property that may be added thereto as provided for herein. All private streets within the subdivision shall be considered common area.
- 1.8 Declaration.** This Declaration of Protective Covenants, Restrictions, Easements, Rights and Liens for Cheshire Parc which shall be recorded in the Probate Records of Jefferson County, Alabama, as the same may be from time to time be supplemented or amended in the manner described herein.
- 1.9 Developer.** Foresight Development, L.L.C., an Alabama limited liability company, and any successor thereof and any purchaser from Foresight Development, L.L.C. of any portion of the Subject Property to whom Foresight Development, L.L.C. also conveys and assigns its rights hereunder as Developer.
- 1.10 Development Plan.** The development plan for a Parcel (including any future modification thereto), includes plat plans, grading plans, building plans, and specifications showing site and plot layout and all exterior elevations, exterior materials and colors thereof, foundation plans, schedule of proposed materials, landscaping, irrigation and drainage plans, design and location of all Improvements including, without limitation, the dwelling, mailboxes, and entrance columns and other construction related plans by the Architectural review Committee.

- 1.11 Improvement.** Any dwelling, building, wall enclosure, fence mailbox, parking facility, storage facility, utility facility, or any other structure of any type, road, curb cut, landscaping (including removal of vegetation), excavation (including removal of trees), irrespective of whether the Improvement is temporary or permanent.
- 1.12 Member.** A parcel owner.
- 1.13 Cheshire Parc or Cheshire Parc Property.** The name of the Subject Property.
- 1.14 Parcel.** Any unit, lot, part, or parcel of the Subject Property designed for a residence and platted of record, regardless of whether a dwelling has or has not been constructed thereon.
- 1.15 Parcel Owner.** The owner or owners of record title to any parcel.
- 1.16 Resident.** Any person or persons occupying a Parcel.
- 1.17 Subject Property.** The property subjected to this Declaration, including both the property more particularly described as Cheshire Parc, as recorded in the Map Book and page number, in the Probate Office of Jefferson County, Alabama, as set forth on page 1 of the Declaration, and any other Real property which may be subjected to the Declaration by separate Instrument executed by Developer.
- 1.18 Termination of Developer Voting Rights.** The date which is the earlier of the expiration of one (1) year during which Developer does not own any portion of the Subject Property or the time when Developer notifies the Association in writing that Developer relinquishes and terminates Developer's control over the Association.
- 1.19 Maintenance.** Shall mean the exercise of reasonable care to keep lots and the common area, including, buildings, easements of ingress, drainage easements, sign easements, utility easements, landscaping, lighting and other related improvements and fixtures in a condition comparable to their original condition. All drainage structures shall be constructed and maintained according to the various regulations of Jefferson County.

ARTICLE II

ARCHITECTURAL REVIEW COMMITTEE; ARCHITECTURAL CONTROL

2.1 Architectural Review Committee. The Architectural Review Committee (the "Architectural Review Committee") shall be composed of at least two and no more than five individuals designated and redesignated from time to time by the Developer until Termination of Developer Voting Rights. The initial members of the Architectural Review Committee shall be Paul J. Spina, Jr., Bobby L Bynum, and a single representative of the current active builder group. The members of

the Architectural Review Committee will be designated and may be removed at any time by the Developer, until such time as there is a Termination of Developer Voting Rights. Upon Termination of Developer Voting Rights, the Board of Directors of the Association shall have the right to appoint and terminate, with or without cause, all members of the Architectural Review Committee. At that time, the Association shall become vested with the rights, duties and functions of the Architectural Review Committee, all of which shall be enforceable by the Association.

2.2 Approval Required; Development Plan. Before commencing the construction or alteration of any Improvement on any Parcel, two (2) copies of the Development Plan must first be submitted in writing to and approved in writing by the Architectural Review Committee. The Architectural Review Committee shall have the right to establish and amend from time to time written rules, regulations and standards governing construction and alteration of any dwellings or other improvements on any Parcel, as well as the content and types of information required to be submitted to the Architectural Review Committee for its approval, each of which shall be in addition to the provisions and requirements set forth herein.

2.3 Alterations. Any exterior remodeling, reconstruction, alterations or additions to an existing dwelling or any activity which would change or alter the exterior appearance of a dwelling or other structure or other improvement must be approved in writing by the **Architectural Review** Committee. Interior remodeling, reconstruction or alterations of a dwelling not affecting the exterior appearance of the dwelling shall not require the written approval of the Architectural Review Committee, but shall comply with all restrictions and covenants set forth herein.

2.4 Application Process.

(a) No Improvements shall be erected, placed maintained or permitted on any Parcel until two (2) copies of the Development Plan shall have been submitted in writing to and approved in writing by the Architectural Review Committee. The Development Plan shall be submitted in writing over the signature of any Parcel Owner or its authorized agent, and shall be accompanied by the request of any Parcel Owner or its agent, specifying for which part of the Development plan approval is sought.

(b) In any case in which the Architectural Review Committee shall disapprove a Development Plan or shall approve the Development Plan only upon specified modifications or conditions, the disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action is based. Upon approval by the Architectural review Committee of any

Development Plan submitted hereunder, a copy of the Development Plan, as approved, shall be deposited for permanent record with the architectural Review Committee.

(c) If the Architectural Review Committee fails either to approve or to disapprove the Development Plan within thirty (30) business days after the Development Plan has been submitted in writing to the Architectural Review Committee, it shall be conclusively presumed that the Architectural Review Committee has approved the Development Plan, subject, however, to the covenants contained herein, and provided that the applicant provides conclusive proof that the Architectural Review Committee actually received the Development Plan. This proof may be provided only by an acknowledgment of receipt of the Development Plan signed by the Architectural Review Committee or by a return receipt for certified mail signed by the Architectural Review Committee, which certified mail forwarded the Development Plan to the Architectural Review Committee.

(d) The Architectural Review Committee shall, in its sole discretion, determine whether the Development Plan and other data submitted by any Parcel Owner for approval are acceptable. Any approval granted by the Architectural Review Committee shall be effective only if the approval is in writing. The Architectural Review Committee shall have the right to disapprove any Development Plan upon any ground which is consistent with the objectives and purposes of this Declaration, including, without limitation, purely aesthetic considerations, failure to comply with any of the provisions of this Declaration, failure to provide requested information, objection to exterior design, appearances or material, objection on the ground of incompatibility with the overall scheme of development for the Parcel or for the Subject Property, objection of any proposed Improvement on any Parcel, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any dwellings or other Improvement on any Parcel or any other matter which in the sole and absolute judgement of the Architectural Review Committee would render the proposed dwelling or other Improvement inharmonious with the general plan of the development for the Subject Property. The approval of the Development Plan for any one specific dwelling or other Improvement shall not be deemed an approval or otherwise obligate the Architectural Review Committee to approve a similar Development Plan for any other Improvement to be constructed or located on any Parcel within the Subject Property.

2.5 Inspection Rights. The Developer, the Association or the Architectural Review Committee, or any agent or employee thereof, may at any reasonable time or times enter upon and inspect any Parcel and any Improvement thereon for the purpose of ascertaining whether the maintenance of such Parcel and the maintenance, construction, or alteration of any Improvement thereon are in compliance with the provisions hereof and neither

Developer, nor the Association, nor the Architectural Review Committee, nor an agent, officer or employee thereof shall be deemed to have committed a trespass or other wrongful act by reason of the entry or inspection. Any inspection shall be for the sole purpose of determining compliance with this Declaration, and neither the making of any inspection, nor the failure to make any inspection, shall be relied upon by Parcel Owners or any third persons or entities for any purpose whatsoever; nor shall any inspection obligate Developer, the Association or the Architectural Review Committee to take any particular action based on the inspection.

2.6 Condition of Property. The Subject Property may be located in an area which includes underground mines, tunnels, sinkholes and subsurface conditions. The approval of Development Plan by the Architectural Review Committee shall not be construed in any respect as a representation or warranty by the Architectural Review Committee, the Association, Developer, Builder or of any director, officer, employee or agent of any of them, to any subsequent Parcel Owner or any other person that the surface or subsurface conditions of any Parcel are suitable for the construction of a dwelling or other Improvement thereon. It shall be the sole responsibility of each Parcel Owner to determine the suitability and adequacy of the surface and the subsurface conditions of the Parcel. None of the entities or persons referred to in this Section (i.e.; the Association, Developer, or Builder who initially purchased the lot from the Developer) shall be liable or responsible for any damage or injury suffered or incurred by any subsequent Parcel Owner or any other person as a result of surface or subsurface conditions affecting a Parcel or any portion thereof, including, without limitation, any surface or subsurface drainage or underground mines, tunnels, sinkholes or other conditions or types of ground subsidence occurring on or under any Parcel.

2.7 Waiver of Liability. THE SCOPE OF REVIEW BY THE ARCHITECTURAL REVIEW COMMITTEE IS LIMITED TO APPEARANCE ONLY AND DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS. None of the Architectural Review committee, or the Association, or Developer, or any architect, agent, officer or employee of any of the foregoing, shall be responsible in any way for any failure of any Improvement to comply with requirements of this Declaration, even if a certificate of compliance has been issued, nor for any defects in any Development Plan submitted, revised or approved, nor for any structural or other defects in any work done according to any Development Plan, and all persons relying thereon agree not to sue or claim against the entities and persons referred to in this Section for any cause arising out of the matters referred to in this Section and further agree to and do hereby release each of these entities and persons from any and every such cause.

Each Parcel Owner, by acceptance of a deed to any Parcel, hereby releases the Architectural Review Committee, the Association, the Developer and their respective agents, officers, directors, members and successors and assigns, from all liability of every nature whatsoever arising from damage, loss or expense suffered, claimed, paid or incurred by any Parcel Owner or from any injury to property or injury or death to any person, related in any way to any defects in any Development Plan submitted to or approved by the Architectural Review Committee, any defects resulting in any work done under the Development Plan or other data submitted, or any action taken or not taken by the Architectural Review Committee, Developer or the Association related thereto.

2.8 Variances. The Architectural Review Committee shall have the right, in its sole and absolute discretion, to grant any variances from any of the restrictions contained in this Declaration upon written application to the Architectural Review Committee requesting a variance; provided, however, that the grant of a variance to one party shall not vest in any other party a right to receive the same or a similar variance. All variances shall be in writing and signed by the Chairman or Vice-Chairman of the Architectural Review Committee.

2.9 Charges for Review of Plans, Certificates. The Architectural Review Committee shall have the right to establish from time to time reasonable charges and fees for the review of any Development Plan, and for issuing any certificate or statement required by, or requested pursuant to, this Declaration. The Architectural Review Committee shall, upon request and at reasonable charges, furnish to any Parcel Owner a written certificate setting forth whether all necessary approvals have been obtained from the Architectural Review Committee in connection with any dwelling or other Improvements on a Parcel.

2.10 Developer's Exemption. Developer and any Parcel or other portion of the Subject Property owned by Developer shall be exempt from the covenants and other requirements of Article II.

ARTICLE III

GERNERAL RESTRICTIONS

3.1 Land Use and Building Type. No parcel shall be used except for a single-family residential purposes. No building shall be erected, placed, or permitted to remain on any Parcel other than one single-family dwelling not to exceed two and one-half stories or forty (40) feet in height, and any additional detached structures as shall be approved by the Architectural Review Committee. No mobile homes or modular house may be placed on a Parcel.

3.2 Construction Standards. Except as otherwise specifically approved or required by the Architectural Review Committee with respect to any particular Parcel, each Parcel and Improvements thereon shall be constructed and maintained in accordance with the following requirements and standards:

- (a) The exterior finish of each dwelling shall be brick, with the exception of any applicable building code requirements. Brick color and texture to be uniform throughout the property and approved by the Architectural Review Committee. The only approved brick color and type allowed on any exterior dwelling in CHESHIRE PARC is "Mt. Laurel" as manufactured and sold by Boral birck company in Bessemer, Alabama.
- (b) Wood frame, vinyl or painted aluminum windows will be used exclusively on the sides, fronts and rears of all dwellings. No unpainted or unprimed aluminum will be allowed.
- (c) Each dwelling constructed on a Parcel shall contain a minimum of 1,000 square feet of heated and cooled living area, excluding porches, garages, basements, and decks or comply with the Jefferson County zoning requirements on square footage.
- (d) The Improvements on each parcel within the Subject Property must include "adequate off-street parking to accommodate at least two (2) vehicles.
- (e) No concrete block work, including foundations, concrete block steps, walkways, walls or any other concrete block work, whether painted or otherwise, shall show above ground or from the exterior of any dwelling in excess of eight (8) inches.
- (f) No garage may be enclosed and finished as living area.

- (g) No window unit air-conditioning shall be placed on any Parcel. Outside air-conditioning units may not be located in the front of any parcel or within any side yard adjacent to any street on corner lots.
- (h) The roof pitch facing the front except porches on any dwelling shall not be less than six to twelve unless otherwise approved in writing by the architectural review Committee. All roof vents and pipes shall be painted as near the color of the roof as practicable, and shall be located on the rear of the dwelling and not visible from the front. No solar or other energy collection device or equipment shall be maintained on any Parcel or dwelling if the same would be visible from the street. No projections of any type shall be allowed above the roof of any dwelling except for chimneys and vent stacks approved by the Architectural Review Committee. Finished roofing shall be a dimensional shingle approved by the Architectural Review Committee.
- (i) No open carports shall be allowed on any Parcel.
- (j) Utility service shall be underground. No utility poles or above ground wires shall be permitted except during the construction phase, and for the primary entrance to Property.
- (k) No individual water supply system shall be permitted on any Parcel unless the system, in all respects, complies with the requirements and recommendations of all state and local law and regulations. Approval of any system as installed shall be obtained from all government agencies.
- (l) No individual sewage disposal system shall be permitted on any Parcel unless the system, in all respects complies with the requirements and recommendations of all state and local laws and regulations. Approval of any system as installed must obtain all government agencies.
- (m) No shrubs or trees shall be planted on street corners or beside driveways that will impede the view or sight of pedestrians or operators of automobiles.
- (n) Upon the completion of a dwelling, all front and side yards must be landscaped with sod and other landscaping approved by the

Architectural Review Committee. The rear yard must be hayed, seeded or sodded.

- (o) No outside radio, television, ham broadcasting, or electronic antenna, aerial or tower, or any satellite dish or similar structure, shall be erected or maintained on any Parcel, except as approved in writing by the Architectural Review Committee, and none shall be visible from the front of any dwelling.
- (p) All driveways must be concrete finish.
- (q) To insure the proper drainage of storm water, runoff, no Parcel Owner shall prohibit, obstruct or otherwise alter any intended drainage course.

3.3 Fences. All fences are subject to the approval of the Architectural review Committee. All fences must be wood with the finished side on the outside and must be six (6) feet in height. All fences visible from Cheshire Parcway shall be planted with shrubbery approved by the Architectural Review Committee. No fence, wall, hedge or shrub planting which obstructs sight lines from any roadways within the Subject Property shall be placed or permitted to remain on any Parcel.

3.4 Mailboxes and House Numbers. At the time of construction of a dwelling on each Parcel, there must be erected a mailbox bearing the house number. The design and materials of the mailbox which must match the house on the Parcel) must be approved by the Architectural Review Committee. All mailboxes and house numbers must be erected by the Parcel Owners in strict conformity with design criteria and Development Plan approved by the Architectural Review Committee, which shall be common for each Parcel within a specific sector of the Subject Property.

3.5 Temporary and Auxiliary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Parcel at any time as a residence, either temporarily or permanently. No auxiliary structures may be placed on- a Parcel unless same have been approved by the Architectural Review Committee.

3.6 Storage of Boats, Trailers and Other Vehicles. No automobiles or other vehicles will be stored on any Parcel or Common Area or kept on blocks unless in the basement or garage of a dwelling. Boats, utility trailers, recreational vehicles and travel trailers must either be parked or

stored in the basement or garage of a dwelling or within a completely enclosed structure on a Parcel, which structure must be approved by the Architectural Review Committee. No tractor trailer trucks, panel vans or other commercial trucks in excess of one (1) ton classification shall be parked or stored on any Parcel or Common Area, except during initial construction of a dwelling on a Parcel. The prohibitions in this Section shall not apply to temporary parking of trucks and other commercial vehicles providing commercial services to the Parcel or to the efforts and activities of Developer in connection with developing the Subject Property.

3.7 Certain Yard Restrictions. The following shall be located or maintained only at the rear of, or behind, a dwelling: wood piles, articles such as children's toys, jungle gyms, trampolines and other outdoor recreational equipment and appurtenances, statues, water fountains, bird baths, flagpoles, bird feeders, wood carvings, plaques, other home crafts or furniture. Barbecue grills and other outdoor cooking equipment and apparatus shall be located only at the rear of a dwelling and should not be visible from any public street. Free-standing playhouses and tree houses must be approved by the Architectural Review Committee. No aboveground swimming pools shall be located on any Parcel. Outside clothes lines and other facilities for drying or airing of clothes are prohibited. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or will. No rocks, rock walls, fencing or other substance shall be placed on any Parcel as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of a Parcel or to otherwise impede or limit access thereto. Seasonal or holiday decorations (Christmas trees and lights, pumpkins, Thanksgiving decorations) shall be removed promptly from any Parcel or dwelling within thirty (30) days following the holiday.

3.8 Completion of Construction. Construction of any dwelling or other Improvement must be completed within twelve (12) months from the date construction commenced, and must be prosecuted diligently and continuously. There shall be no occupancy of a dwelling until the dwelling is completed and finally inspected by the appropriate government authority.

3.9 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, mining operations of any kind, oil wells, tanks, tunnels, mineral excavation, or shafts shall be permitted upon or in any Parcel. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted

upon any Parcel.

3.10 Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Parcel, except that dogs, cats, or other household pets, not to exceed two (2) in number, may be kept provided they are not kept, bred, or maintained for any commercial purpose and that the animals do not violate any applicable law, ordinance or regulation.

3.11 Garbage and Refuse Disposal. No Parcel shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

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

3.13 Common Area Traffic. Motorized vehicular traffic of any type is prohibited on any Common Area except as may be required or permitted by the Developer or the Association for maintenance or construction. This restriction does not apply to the paved private streets within the development considered to be common area.

3.14 Proscribed Uses. No operation or uses shall be permitted or maintained on any Parcel which cause or produce any of the following effects discernible within any portion of the Subject Property except during the period of construction of Improvements thereon:

- a) Noise or sound that is unusual and inappropriate for the Subject Property and is objectionable because of its volume, duration, intermittent beat, frequency or shrillness;
- b) Noxious, toxic, or corrosive fumes or gases;
- (c) Obnoxious odors;
- (d) Dust, dirt or fly ash; or
- (e) Unusual fire or explosive hazards.

3.15 Covenant with Respect to Maintenance of Parcel and

Improvements; Liens. Each Parcel Owner shall keep all Parcels owned by the Parcel Owner, and all Improvements therein, thereon or appurtenant thereto, in good order and repair, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management. There shall be no outside burning of wood, leaves, or trash except during construction of a dwelling or with approval of the fire department. If in the opinion of the Association any Parcel Owner fails to perform the duties imposed by the preceding sentence after thirty (30) days' written notice from the Association to the Parcel Owner to remedy the condition in question, the Association shall have the right, through its agents and employees, to enter upon the Parcel in question (or upon the improvements which may be appurtenant thereto) and to repair, maintain, repaint and restore the Parcel or Improvement and the cost thereof shall be a binding, personal obligation of the Parcel Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question. Any landscaping approved by the Architectural Review Committee cannot be changed pursuant to this Section.

3.16 Priority of Lien. The lien provided in Section 3.15 hereof shall not be valid as against a bona fide purchaser (or bona fide mortgagee) of the Parcel in question unless a notice of the lien shall have been recorded in the office of the Judge of Probate of Jefferson County, Alabama, prior to the recordation in the office of the deed (or mortgage) conveying the Parcel in question to a purchaser (or subjecting the same to such mortgage).

3.17 Insect and Fire Control. In order to implement effective insect and fire control, the Association and/or Developer and their agents shall have the right to enter upon any Parcel on which a dwelling has not been constructed and upon which no landscaping plan has been approved as set forth herein, such entry may be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Association or Developer detracts from the overall beauty, setting and safety of the Subject Property. Entrance for these purposes shall not be deemed a trespass. The Association and/of Developer and their agents likewise may enter upon any Parcel to remove any trash which has collected on the Parcel and the entrance and removal shall not be a trespass. The provisions in this Section shall not be

construed as an obligation on the part of the Association or Developer to mow, clear, cut or prune any Parcel nor to provide garbage or trash removal service.

3.18 Signs. No sign shall be nailed or attached to trees. No commercial signs, including "for rent," "for sale," and other similar signs, shall be erected or maintained on any Parcel unless authorized in writing by the Association, except that one sign advertising the Parcel for sale or lease, not in excess of five square feet, and not greater than five feet above ground level, shall, be permitted without the consent of the Architectural Review Committee. If permission is granted, the Architectural Review Committee may restrict the size, color and content of all signs.

ARTICLE IV

PROPERTY RIGHTS

1. **Title to Common Areas.** Declarant shall retain the legal title to the Common Area so long as it owns at least one lot subject to these covenants. On or before conveyance by Declarant of the last lot which Declarant owns in Cheshire Parc, Declarant shall convey the Common Areas to the Association subject to the taxes for the year of conveyance and to restrictions, conditions, limitations reservations and easements of record. Declarant expressly reserves the right to create additional non-exclusive common utility easements, easements of drainage, water retention easements, sanitary sewer easements, and ingress and egress easements in the common area as described above until such time as it conveys the common area to the Association, regardless of whether Declarant has conveyed any of the lots within to individual owners.
2. **OWNER'S EASEMENT OF ENJOYMENT.** Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:
 - A. All provisions of this Declaration, any Plat of all or any part of the property, and the articles and By-Laws of the Association;
 - B. Rules and Regulations adopted by the Association governing the use and enjoyment of the Common Areas;

- C. Restrictions contained on any and all Plats of all or any of the Common Area or filed separately with the respect to all or any part or parts of the property;
- D. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3 of members has been recorded and excepted by the public agency, or utility.
- E. Easements for installation and maintenance of utilities, drainage facilities and sign easements as shown on the recorded plat of the property as shown in Map Book ___ Page ___ in the Office of the Judge of Probate of Jefferson County, Alabama, and any amendments thereto concerning the various types of easements which have been reserved by the Declarant.
- F. Drainage Easement. The Association shall have a Drainage Easement over and across the Drainage Easement Area for the installation, maintenance, repair and replacement of drainage ditches, pipes, lines and systems to collect and discharge surface water and run-off.
- G. Maintenance Easement For Attached Townhomes. The association, each Owner, and their respective agents, contractors and employees, shall have a Maintenance Easement for the purpose of access to the rear of the attached townhomes which are proposed to be constructed on the Lots in connection with (1) any construction, installation, maintenance, removal, repair or replacement by an Owner of structures, improvements, equipment or other property situated on his Lot (provided that such easement right shall not authorize the construction or installation of any structure, improvement or other item, except in accordance with the terms and provisions of the Declaration); and (2) access by the Association to effect such construction, installation, removal, repairs, replacement, or to effect such other actions as the Association may deem to be necessary or appropriate in exercising its rights under the Declaration, or under applicable law, or in enforcing the terms and provision of the Declaration. In order to facilitate the use of the Maintenance Easement, all fencing, barriers and other obstructions within the Maintenance Easement Area shall be constructed, designed and installed with gates or removable sections. The use and enjoyment of the Maintenance

easement shall be subject to the following conditions and restrictions: (1) before undertaking any action pursuant to the Maintenance Easement which might materially affect any other party, the Owner of a Lot shall give not less than three (3) days prior notice to the Association; (2) the exercise and enjoyment of the Maintenance Easement shall be effected in a manner which will minimize any effect thereof on the Common Area and on any other Owners; (3) the Owner exercising the Maintenance Easement, after completion of his construction, installation, removal, repair, or replacement, shall restore the Maintenance Easement Area, and any property of any other Owners or of the Association, to their condition prior to such use, to the extent reasonably practicable; and (4) each Owner shall be responsible for any and all damage to property, death, or injury to persons, or other claim, damage or expense of any nature, caused by the act or omission of such Owner, or of his agents, contractors and employees, in exercising the Maintenance Easement. In addition to the foregoing, the Association shall have the right, from time to time, to establish or appropriate in connection with the use and enjoyment of the Maintenance Easement.

H. Conveyances by Association. The Association shall have the right to convey easement rights, rights-of-way, licenses and other interest and rights in and to the Easement Areas, to governmental authorities, quasi-governmental agencies, or private parties, for the purpose of providing utilities or other services to the Property, within the scope of the Easements, or otherwise under circumstances which are not consistent with the scope and effect of the Easements.

I. Maintenance of Easements. The Association shall have the power and authority to take such actions as may be necessary and appropriate to maintain the Easement Areas. The responsibility for maintaining facilities in any Easement Area may be transferred by the association in connection with any conveyance pursuant to Paragraph F. hereinabove, or otherwise, and in such event, the Association shall have the power and authority to enforce the maintenance obligations of the grantee or other party to such conveyance.

3. **RECIPROCAL EASEMENTS.** Each Lot Owner grants to each other Lot Owner easements for the following uses and purposes:

- a. Maintenance, repair and replacement. An easement over and across and through each Lot for maintenance, repair and replacement of Improvements. Use of this easement, however, for access to individual

Lots shall be limited to reasonable hours, except that access may be had any time in case of emergency.

- b. Utilities. An easement for water, sewage, cable television and all utilities, for Improvements to all lots.
 - c. Easement for Encroachment. The Developer proposes to construct on each of the aforesaid Lots zero-lot line town homes. In the matter of the construction and completion of the said townhouses certain eaves, roof overhangs, brick veneer or other wooden siding or other building materials that may be attached to the structural walls will or may encroach over onto either the air space or the real estate of an adjoining or contiguous Lot. There is hereby created on each of said Lots so effected an easement for said encroachments or overhangs, there is also granted the right to maintain and repair the same so long as said encroachments and overhangs shall and do exist. In the further event that any structure compromising a said townhouse is totally destroyed and then rebuilt, the Owners of said townhouse so effected agree that said encroachments and easements shall be permitted in the matter of the reconstruction and the right of maintenance shall continue to exist.
4. **DELEGATION OF USE.** Any owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.
5. **RIGHT OF ENTRY.** The Declarant, its successors and assigns, and the Association, through their duly authorized employees and contractors, shall have the right after reasonable notice of the owner thereof, to enter any lot at any reasonable hour on any day to perform such maintenance as may be authorized herein. However, nothing contained in this paragraph shall be deemed a requirement on the part of the Declarant to perform such maintenance.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may be separated from ownership of any Lot which is subject to assessment.

2. The Association shall have one class of voting membership:

Each Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENT

1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.
2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Areas and of the homes situated upon the premises.
3. MAXIMUM ANNUAL ASSESSMENT. Until January 1 the year immediately following the conveyance of the last Lot to an Owner, the maximum annual assessment shall be One Hundred Fifty Dollars (\$150.00) per Lot.

From and after January 1 of the year immediately following the conveyance of the last Lot to an Owner, the maximum annual assessment may be increase each

year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

- (a) From and after January 1 of the year immediately following the conveyance of the last Lot of an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
 - (b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent to two-thirds (2/3) of the votes of Lots owned by members of the Homeowner's Association. Declarant shall have the sole responsibility of contracting for maintenance services for the common areas for any year in which it owns at least one lot in the development.

ARTICLE VII

EXTERIOR MAINTENANCE

In the event an owner of any Lot in the property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE VIII

PARTY WALLS

1. GENERAL RULES OF LAW TO APPLY. Each wall which is built as part of the original construction of the homes upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence of willful acts or omission shall apply thereto.
2. SHARING OF REPAIR AND MAINTENANCE. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
3. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
4. WEATHERPROOFING. Notwithstanding any other provision of the Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.
5. RIGHT TO CONTRIBUTION RUNS WITH THE LAND. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
6. ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

CHESHIRE PARC HOMEOWNER'S ASSOCIATION **STORMWATER SYSTEM MAINTENANCE PLAN**

A portion of the roads and the stormwater system within CHESHIRE PARC are privately owned and maintained by the CHESHIRE PARC Homeowner's Association. Certain maintenance items are required to prevent the malfunctioning of this stormwater system. At a minimum, the maintenance and inspection listed below shall be performed.

Daily Operations:

No resident shall deposit or place by any means into the stormwater system any item that would tend to block or obstruct the stormwater system. Residents shall not place items in gutters, streets, ditches, or swales that could wash into the stormwater system.

Blockage of inlets can cause local flooding which could be a safety hazard. Common items that cause this type of problem are:

Blowing or raking leaves or other landscaping debris into inlets or gutters where the debris can wash into inlets.

Placing garbage bags or can in gutters where flowing water can wash these items downstream and into inlets or blocks inlets.

In the common area of the subdivision there are detention/retention ponds. The outlet structures for these ponds shall be kept free of debris and trash at all times. The outlet structures for these ponds shall be inspected before and after each rainfall event, with all trash and debris removed.

Monthly Inspection and Maintenance Items:

Inspect all inlets, manholes, junction boxes, headwalls, ditches, swales, and other drainage structures and features. Remove any debris, rocks, silt, etc. found during inspection. **WARNING: MANHOLES, JUNCTION BOXES, PIPES, ETC. ARE CONSIDERED CONFINED SPACES AND MAY CONTAIN CERTAIN GASSES OR OTHER DANGERS WHICH COULD CAUSE INJURY OR DEATH. ONLY PERSONS PROPERLY TRAINED AND EQUIPPED TO WORK IN CONFINED SPACES SHALL ENTER THESE AREAS AND SHALL COMPLY WITH ALL LAWS AND INDUSTRY STANDARDS WHEN DOING SO.**

Inspect the riprap at the emergency spillway of the detention ponds.

Inspect the outlet structure of the detention/retention ponds for any cracks, settlement, damage or erosion. In the event any cracks, settlement, damage or erosion is detected, the Homeowner's Association shall retain a Professional Engineer to inspect and make recommendations for repair of these structures.

Inspect the detention/retention pond basins for excessive sedimentation. Sediment shall be removed to approximately the original ground level. Care should be taken not to disturb any part of the pond basin not impacted by silt

deposits. Erosion control shall be required per current ADEM standards while performing this work.

Inspect the site for any erosion or washes, especially slopes around the site which may be prone to erosion if the vegetation cover is lost or in exceptionally heavy rainfall events.

Further Maintenance Items:

Inspection of the detention/retention ponds shall not occur at the monthly intervals, but also after major rainfall event. Inspection shall be as stated above under "Monthly Inspection and Maintenance Items" with the same course of action taken if cracks, settlement, damage or erosion is detected.

ARTICLE X

MAINTENANCE OF PRIVATE ROADS WITHIN CHESHIRE PARC

A portion of the roads within CHESHIRE PARC are privately owned and maintained by the CHESHIRE PARC Homeowner's Association. All road construction within the development was completed under Jefferson County inspection, and conformed to Jefferson County requirements for the construction of residential streets. Jefferson County will not maintain the private roads now or in the future and will not honor a request to do such. It is important to note that any such future request for dedication of private streets to Jefferson County would be directed to and considered by the Jefferson County Commission.

ARTICLE XI

GENERAL PROVISIONS

1. **ENFORCEMENT.** The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provision of this Declaration. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do thereafter.

2. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.
3. AMENDMENT. The Declarant shall retain the sole right of revision or amendment of these covenants and restrictions until such time as the Association is initiated by the Declarant. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Declarant prior to initiation of the Association. After the Association has become initiated by the Declarant, any amendment instrument must be signed by not less than ninety percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.
4. SCRIVENER'S ERROR. Notwithstanding provisions elsewhere herein for amendments, any scrivener's error or omission may be corrected by the filing of any amendment to this Declaration by the Declarant until the time of conveyance of the common areas to the Association without the express consent of the owner of any lot affected. Each class of members who are voting in person or by proxy at a meeting duly called for this purpose.
5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the presiding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.
7. UNIFORM RATE ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, or annual basis.
8. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence upon initiation of the Association by the Declarant, its successors or assigns. The first annual

assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

9. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.
10. SUBORDINATION OF LIEN TO MORTGAGES. The lien for the assessments provided herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lien thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

IN WITNESS WHEREOF. The undersigned Foresight Development, LLC,
has hereunto set its hand and seal on this 10th day of June, 2005

Foresight Development, LLC

 MEMBER

Member

By:  MEMBER

Member

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State,
hereby certify that Bobby Bynum and Paul J. Spina Jr., whose name as Members
of Foresight Development, LLC. is signed to the foregoing conveyance, and who
is known to me, acknowledged before me on this day, that, being informed of the
contents of the conveyance, he, in capacity as such Member and with full
authority, executed the same voluntarily for and as the act of said incorporation.

Given under my hand and seal this 10th day of June, 2005

Notary Public



My commission expires

State of Alabama - Jefferson County
I certify this instrument filed on:
2005 JUN 10 02:14:13:66PM
Recorded and \$ Mtg. Tax
and \$ 64.50 Deed Tax and Fee Amt.
\$ 64.50 Total \$ 64.50



200561/8302 BESS

Notary Public
MARTHA LEWIS
State of Alabama
My Commission Expires Apr. 03, 2007

**FIRST AMENDMENT TO THE
DECLARATION OF PROTECTIVE COVENANTS,
RESTRICTIONS, EASEMENTS, RIGHTS AND LIENS
CHESHIRE PARC**

WHEREAS, the Declaration of Protective Covenants, Restrictions, Easements, Rights and Liens Cheshire Parc (the "Declaration") was recorded on 10 June 2005 as Instrument Number 200561/8302 in the Office of the Judge of Probate of Jefferson County, Alabama by developer Foresight Development, L.L.C.;

WHEREAS, Cheshire Land Holdings, LLC since acquired the assignment of developer rights of Cheshire Parc;

WHEREAS, Cheshire Land Holdings, LLC desires to make certain amendments to the Declaration pursuant to its developer rights and the terms of the Declaration;

NOW THEREFORE, Cheshire Land Holdings, LLC does hereby expressly adopt this First Amendment pursuant to its developer rights and the terms of the Declaration, and does hereby declare that the real property made subject to the Declaration and any real property that may be included in any future development property shall be and the same are hereby subject to the following easements, covenants, conditions, assessments, limitations and restrictions:

Article III of the Declaration is hereby amended in its entirety as set forth in the attached **Exhibit A.**

Article VI of the Declaration is hereby amended in its entirety as set forth in the attached **Exhibit B.**

Article XI of the Declaration is hereby amended to remove Sections 11.9 and 11.10.

NOW, THEREFORE, Cheshire Land Holdings, LLC hereby amends the Declaration as stated above as to all real property made subject to the Declaration. Cheshire Land Holdings, LLC reserves all rights to further make any additional Amendments to the Declaration as developer deems appropriate, until such time as developer has divested itself of such rights as described in said Declaration.

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment on this
the 30th day of January, 2020.

Cheshire Land Holdings, LLC


Stephen Mordecai, Member

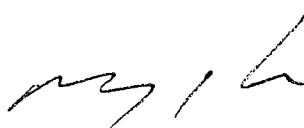
STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State hereby certify that Stephen Mordecai, whose name as Member of Cheshire Land Holdings, LLC, is signed to the foregoing instrument and who is known to me, acknowledged before me, that, being informed of the contents of this instrument, he, as such Member, executed the same voluntarily on the day the same bears date.

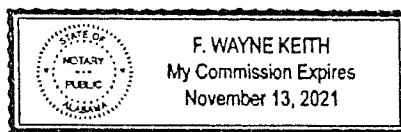
Given under my hand and seal this the 30th day of January, 2020.

(SEAL)



Notary Public

My Commission Expires: November 13, 2021



THIS INSTRUMENT PREPARED BY:
Tommy B. Majors IV
The Majors Law Firm, LLC
270 Doug Baker Blvd Ste 700-201
Birmingham, AL 35242

Exhibit A

ARTICLE III: GENERAL Restrictions

3.1 LAND USE AND BUILDING TYPE. No parcel shall be used except for single-family residential purposes. No building shall be erected, placed, or permitted to remain on any Parcel other than one single-family dwelling not to exceed two and one-half stories or forty (40) feet in height, and any additional detached structures as shall be approved by the Architectural Review Committee (hereinafter may be referred to as "ARC"). No mobile homes or modular house may be placed on a Parcel.

3.2 CONSTRUCTION STANDARDS. Except as otherwise specifically approved or required by the ARC with respect to any particular Parcel, each Parcel and Improvements thereon shall be constructed and maintained in accordance with the following requirements and standards:

(a) The exterior finish of each dwelling shall be brick, with the exception of any applicable building code requirements. Brick color and texture to be uniform throughout the property and approved by the ARC. The only approved brick color and type allowed on any exterior dwelling in Cheshire Parc is "Mt. Laurel" as manufactured and sold by Boral Brick Company in Bessemer, Alabama.

(b) Wood frame, vinyl or painted aluminum windows will be used exclusively on the sides, fronts and rears of all dwellings. No unpainted or unprimed aluminum will be allowed.

(c) Each dwelling constructed on a Parcel shall contain a minimum of 1,000 square feet of heated and cooled living area, excluding porches, garages, basements, and decks or comply with the Jefferson County zoning requirements on square footage.

(d) The improvements on each Parcel within the Subject Property must include adequate off-street parking to accommodate at least two (2) vehicles.

(e) No concrete block work, including foundations, concrete block steps, walkways, walls or any other concrete block work, whether painted or otherwise, shall show above ground or from the exterior of any dwelling in excess of eight (8) inches.

(f) No garage may be enclosed and finished as living area.

(g) No window unit air-conditioning shall be placed on any Parcel. Outside air-conditioning units may not be located in the front of any Parcel or within any side yard adjacent to any street on corner Parcels.

(h) The roof pitch facing the front, except porches on any dwelling, shall not be less than six to twelve unless otherwise approved in writing by the ARC. All roof vents and pipes shall be painted as near the color of the roof as practicable, and shall be located on the rear of the dwelling and not visible from the front. No solar or other energy collection device or equipment shall be maintained on any Parcel or dwelling if the same would be visible from the street. No

projections of any type shall be allowed above the roof of any dwelling except for chimneys and vent stacks approved by the ARC. Finished roofing shall be dimensional shingle approved by the ARC.

- (i) No open carports shall be allowed on any Parcel.
- (j) Utility service shall be underground. No utility poles or above ground wires shall be permitted except during the construction phase or for the primary entrance to Property.
- (k) No individual water supply system shall be permitted on any Parcel unless the system, in all respects, complies with the requirements and recommendations of all state and local law and regulations.
- (l) No individual sewage disposal system shall be permitted on any Parcel unless the system, in all respects, complies with the requirements and recommendations of all state and local laws and regulations.
- (m) No shrubs or trees shall be planted on street corners or beside driveways that may impede the view or sight of pedestrians or operators of automobiles.
- (n) Upon the completion of a dwelling, all front and side yards must be landscaped with sod or other landscaping approved by the ARC. The rear yard must be hayed, seeded, or sodded.
- (o) No outside radio, television, ham broadcasting, or electronic antenna, aerial or tower, or any satellite dish or similar structure, shall be erected or maintained on any Parcel, except as approved in writing by the ARC, and none shall be visible from the front of any dwelling.
- (p) All driveways must be concrete finish.
- (q) To insure the proper drainage of storm water runoff, no Parcel Owner shall prohibit, obstruct or otherwise alter any intended drainage course.
- (r) Screen doors shall not be used on the front or side of any Dwelling.
- (s) No wooden steps, stoops or porches shall be allowed on the front or sides of any Dwellings. No concrete, concrete block or cinder block shall be used as an exposed building surface; any concrete, concrete block or cinder block utilized in the construction of a Dwelling or for retaining walls and foundations shall be finished in the same materials utilized for the remainder of the Dwelling (e.g., brick, stone, stucco, etc.).

3.3 FENCES. All fences are subject to the approval of the ARC. All fences must be wood with the finished side on the outside and must be six (6) feet in height. All fences visible from Cheshire Parkway shall be planted with shrubbery approved by the ARC. No fence, wall, hedge or shrub planting which obstructs sight lines from any roadways within the Subject Property shall be placed

or permitted to remain on any Parcel. All fences should be made of pressure treated wood with finished side on the outside.

3.4 MAILBOXES AND HOUSE NUMBERS. At the time of construction of a dwelling on each Parcel, there must be erected a mailbox bearing the house number. The design and materials of the mailbox, which must match the house on the Parcel, must be approved by the ARC. All mailboxes and house numbers must be erected by the Parcel Owners in strict conformity with design criteria and Development Plan approved by the ARC, which shall be common for each Parcel within a specific sector of the Subject Property. Additionally:

(a) Only one (1) mailbox shall be allowed on any Parcel or Dwelling. Mailboxes shall be of a standard size and design similar to the mailbox originally installed by the Developer. Mailboxes shall contain only the house number and the name of the Owner of the Parcel or Dwelling as approved by the ARC, but no further inscription, paintings, ornaments or artistry shall be allowed. Approved paint color of High Gloss Black Spray Paint. Approved colors for lettering are black and white.

(b) Mailboxes shall be properly maintained and painted regularly to prevent rust, faded/discolored paint, and signs of wear and tear. Mailboxes must be free from dents and chipping paint and must contain one red postal flag. Dismounted mailboxes must be remounted or replaced.

3.5 TEMPORARY AND AUXILIARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Parcel at any time as a residence, either temporarily or permanently. No auxiliary structures may be placed on a Parcel unless the same have been approved by the ARC.

3.6 STORAGE OF BOATS, TRAILERS AND OTHER VEHICLES. No automobiles or other vehicles will be stored on any Parcel or Common Area or kept on blocks unless in the basement or garage of a dwelling. Boats, utility trailers, recreational vehicles and travel trailers must either be parked or stored in the basement or garage of a dwelling or within a completely enclosed structure on a Parcel, which structure must be approved by the ARC. No tractor trailer trucks, panel vans or other commercial trucks in excess of one (1) ton classification shall be parked or stored on any Parcel or Common Area, except during initial construction of a dwelling on a Parcel. The prohibitions in this Section shall not apply to temporary parking of trucks and other commercial vehicles providing commercial services to the Parcel or to the efforts and activities of Developer in connection with developing the Subject Property. Inoperable vehicles shall have seven (7) days to be repaired or removed from the property. No Owner or Occupant shall repair or restore any vehicle, machinery or equipment of any kind within any portion of the Common Areas. Owner or Occupant may only repair a vehicle inside his garage and must complete the repairs within 7 days or remove the inoperable vehicle from the property. No vehicle shall be without tires except within a closed garage space and is subject to the seven (7) day repair rule. Any inoperable vehicle which is parked outside of the Owner's garage shall be in violation.

3.7 CERTAIN YARD RESTRICTIONS. The following shall be located or maintained only at the rear of, or behind, a dwelling: wood piles, articles such as children's toys, jungle gyms, trampolines, and other outdoor recreational equipment and appurtenances, statues, water fountains,

bird baths, flagpoles, bird feeders, wood carvings, plaques, other home crafts or furniture. Barbecue grills and other outdoor cooking equipment and apparatus shall be located only at the rear of a dwelling and should not be visible from any public street. Free-standing playhouses and tree houses must be approved by the ARC. No above ground swimming pools shall be located on any Parcel. Outside clothes lines and other facilities for drying or airing of clothes are prohibited. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or wall. No rocks, rock walls, fencing or other substance shall be placed on any Parcel as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of a Parcel or to otherwise impede or limit access thereto. Seasonal or holiday decorations (i.e., Xmas trees and lights, pumpkins, Thanksgiving decorations) shall be removed promptly from any Parcel or dwelling within thirty (30) days following the holiday. Additionally:

(a) No interior furniture (i.e., sofas, etc.) shall be allowed to remain outside any Dwelling. Exterior furniture may be allowed upon approval of the ARC.

(b) Basketball goals must be submitted to the ARC for approval. One well maintained basketball goal is allowed at the rear of the property.

(c) When not in use, hoses should be stored neatly on a hose reel or in a hose box.

(d) Appropriate window treatments shall be used on all windows. Sheets, bed linens, blankets and paper or plastic bags are not appropriate window treatments.

(e) Landscaping must be maintained and kept in good condition including the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery, the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. Dumping trees, limbs, bushes, or other lawn trimmings into the common area or another resident's property is prohibited.

3.8 COMPLETION OF CONSTRUCTION. Construction of any dwelling or other Improvement must be completed within twelve (12) months from the date construction commenced, and must be prosecuted diligently and continuously. There shall be no occupancy of a dwelling until the dwelling is completed and finally inspected by the appropriate government authority.

3.9 OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying, mining operations of any kind, oil wells, tanks, tunnels, mineral excavation, or shafts shall be permitted upon or in any Parcel. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Parcel.

3.10 PETS, LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Parcel, except that dogs, cats, or other household pets, not to exceed two (2) in number, may be kept provided they are not kept, bred, or maintained for any commercial purpose and that the animals do not violate any applicable law, ordinance or regulation. Additionally:

(a) No pet shall be allowed to make an unreasonable amount of noise or become a nuisance.

(b) All structures or areas for the care, housing or confinement of any pet shall be located at the rear of a Dwelling, shall not be visible from any street providing access to the Property and shall be constructed of materials and of a size approved by the ARC.

(c) Pets shall not be allowed to roam unattended within the Property; all dogs shall be kept and maintained within fenced or walled areas on a Parcel or Dwelling, as approved by the ARC, or otherwise under leash. Pets shall not be permitted to leave excrement on the Parcel or Dwelling of any other Owner and the Owner of such pet shall immediately remove the same. Each Owner shall be liable to the Association for the costs of repairing any damage to the Common Areas caused by the pet of such Owner or Occupant. The Board shall have the right from time to time to promulgate rules and regulations governing keeping the pets within the Property, including the right to assess fines for violations of such rules and regulations.

3.11 GARBAGE AND REFUSE DISPOSAL. No Parcel shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition. Trash cans and containers shall at all times be kept at the rear or side of a Dwelling in an inconspicuous area, unless placed at the curb on the day of pickup by the waste pickup service for the Development. Any trash containers remaining at the street in excess of 24 hours past the trash pickup time are subject to fines. For dwellings without side yards or easy access to the rear of the dwelling, trashcans are permitted to be in the front of the property in the least conspicuous placement to the far left or far right of the property lines.

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

3.13 COMMON AREA TRAFFIC. Motorized vehicular traffic of any type is prohibited on any Common Area except as may be required or permitted by the Developer or the Association for maintenance or construction. This restriction does not apply to the paved private streets within the development considered to be common area.

3.14 PROSCRIBED USES. No operation or uses shall be permitted or maintained on any Parcel which cause or produces any of the following effects discernible within any portion of the Subject Property except during the period of construction of Improvements thereon:

(a) Noise or sound that is unusual and inappropriate for the Subject Property and is objectionable because of its volume, duration, intermittent beat, frequency or shrillness;

(b) Noxious, toxic, or corrosive fumes or gases;

(c) Obnoxious odors;

- (d) Dust, dirt or fly ash; or,
- (e) Unusual fire or explosive hazards.

3.15 COVENANT WITH RESPECT TO MAINTENANCE OF PARCEL AND IMPROVEMENTS; LIENS. Each Parcel Owner shall keep all Parcels owned by the Parcel Owner, and all Improvements therein, thereon or appurtenant thereto, in good order and repair, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other Improvements, all in a manner and with such frequency as is consistent with good property management. There shall be no outside burning of wood, leaves, or trash except during construction of a dwelling or with approval of the fire department. If in the opinion of the Association any Parcel Owner fails to perform the duties imposed by the preceding sentence after thirty (30) days' written notice from the Association to the Parcel Owner to remedy the condition in question, the Association shall have the right, through its agents and employees, to enter upon the Parcel in question (or upon the improvements which may be appurtenant thereto) and to repair, maintain, repaint and restore the Parcel or Improvement and the cost thereof shall be a binding, personal obligation of the Parcel Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question. Any landscaping approved by the ARC cannot be changed pursuant to this Section.

3.16 PRIORITY OF LIEN. The lien provided in Section 3.15 hereof shall not be valid as against a bona fide purchaser (or bona fide mortgagee) of the Parcel in question unless a notice of the lien shall have been recorded in the office of the Judge of Probate of Jefferson County, Alabama, prior to the recordation in the office of the deed (or mortgage) conveying the Parcel in question to a purchaser (or subjecting the same to such mortgage).

3.17 INSECT AND FIRE CONTROL. In order to implement effective insect and fire control, the Association and/or Developer and their agents shall have the right to enter upon any Parcel on which a dwelling has not been constructed and upon which no landscaping plan has been approved as set forth herein, such entry may be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Association or Developer detracts from the overall beauty, setting and safety of the Subject Property. Entrance for these purposes shall not be deemed a trespass. The Association and/or Developer and their agents likewise may enter upon any Parcel to remove any trash which has collected on the Parcel and the entrance and removal shall not be a trespass. The provisions in this Section shall not be construed as an obligation on the part of the Association or Developer to mow, clear, cut or prune any Parcel nor to provide garbage or trash removal service.

3.18 SIGNS. No sign shall be nailed or attached to trees. No commercial signs, including "for rent," "for sale," and other similar signs, shall be erected or maintained on any Parcel unless authorized in writing by the Association, except that one sign advertising the Parcel for sale or lease, not in excess of five (5) square feet, and not greater than 5 (5) feet above ground level, shall be permitted without the consent of the ARC. If permission is granted, the ARC may restrict the size, color and content of all signs.

3.19 PARKING, DRIVING AND GARAGES.

(a) Each Dwelling shall provide for off-street parking for at least two (2) automobiles. Vehicles must be parked in the driveway or garage and may not extend into the street. Parking on any part of the lawn is prohibited.

(b) Owners are responsible for the parking of all their tenants', residents', and guests' vehicles.

(c) Vehicles are not permitted to block any mailboxes or prevent the flow of traffic on the streets. Parking in the common areas is prohibited without pre-approval. Residents shall request permission for such permitted use from the Board at least seven (7) days prior to intended use date.

(d) Garage doors shall remain closed at all times except when in use. Garage doors shall be constructed of such materials as are approved by the ARC. No garage shall be converted to any use other than for the parking of vehicles therein without the approval of the ARC. Garage doors may open directly onto a street.

(e) Guest vehicles may only park on the street for a maximum of 4 hours but must not block another resident's driveway, any mailbox, or prevent the flow of traffic.

(f) Parking is permitted on Cheshire Xing for the drop off and pickup of bus riders for the half hour window before bus arrival in the mornings and afternoons. Vehicles may not block traffic flow on Cheshire Parkway.

(g) Vehicles are subject to the speed limit and stop signs within the neighborhood. The speed limit on all streets is 25mph or as posted. Cathwick Drive's speed limit is 20mph. Drivers must be aware of pedestrians including children walking to and from the bus stop.

3.20 SATELLITE DISHES AND ANTENNAE. No satellite dishes larger than 18" in diameter shall be allowed on any Parcel or Dwelling. Any such small satellite dish shall be attached to the Dwelling on the rear or side of the Dwelling in such manner as is not visible from any public or private street providing access to the Property to the extent possible. No radio antenna, radio receiver or other similar device or aerial shall be attached to or installed on any Parcel or Dwelling, unless the same is contained entirely within the interior of a building or other structure, is not visible from any public or private street providing access to the Property or adjacent Parcel or Dwelling and is approved by the ARC. No radio or television signals or any other form of electromagnetic radiation or transmission shall be permitted to originate from any Parcel or Dwelling which may interfere with the reception of radio or television signals within the Property or any other real property situated in close proximity to the Property. Satellite dishes must be placed in the most inconspicuous location (i.e. behind or towards the rear of the home) as seen from the street but where a clear signal can be received. Satellite dishes are not to be mounted on the ground. All dishes should be gray or a subtle or subdued color.

3.21 USE OF COMMON AREA.

(a) Yard sales and vendor activities are only permitted in the common area with pre-approval from Board at least seven (7) days before intended use. Sales items, equipment, and trash must be removed within the allotted time slot and are not allowed to be left unattended, even if the event extends across multiple days.

(b) Dumping vehicles, tires, equipment, landscape trimmings or any other trash into the common area is strictly prohibited.

(c) Dumping into or blocking storm drains is not permitted. This includes the dumping of grease and other kitchen waste.

3.22 NOTICE, RIGHT OF HEARING, AND APPEALS: In the event any of the terms and provisions of this Article III, or any Article or any other terms of any governing documents for Cheshire Parc, are breached or not otherwise being complied with in all respects by any Owner or Occupant, then the Association shall have the right to exercise all of the rights and remedies set forth in any of the governing documents for Cheshire Parc, including the imposition of reasonable monetary fines and suspension of use and voting privileges and/or exercise all other rights and remedies available to the Association as set forth in any of the governing documents for Cheshire Parc or as may be provided by law.

(a) Right to Notice and Hearing. Whenever the Declaration or Bylaws require that any action by the Board be taken only after written notice of the alleged violation (or the possible levy of an Individual Assessment) as well as the opportunity for such Owner to appear before the Board and be heard, the following procedure shall be observed:

(b) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a hearing is requested within 10 days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided that the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the Person who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(d) Appeals. Any Person having a right to written notice of the alleged violation (or the possible levy of an Individual Assessment) as well as the opportunity for such Owner to appear before the Board and be heard shall have the right to appeal to the Board of Directors from a decision of persons other than the Board by filing a written notice of appeal with the Board within 10 days after being notified of the decision. The Board of Directors shall conduct a hearing within 30 days, giving the same notice and observing the same procedures as were required for the original meeting.

STREET/PUBLIC PARKING VIOLATIONS: Notwithstanding the above, any unauthorized vehicle which parks in the common areas, prevents traffic flow, blocks access to another resident's driveway, blocks access to mailboxes, parks on the street for more than 4 hours, or violates the parking rules set forth by the Board in any other way may receive an immediate fine without any prior notice and be subject to tow at owner's expense.

RIGHT TO REPORT SUSPECTED VIOLATIONS

1. Any Owner and/or resident may report violations by contacting the Association via the website contact section or by emailing.
2. Written and/or photographic proof of the suspected violation is normally required before any further action can be taken. Owners/residents are advised to communicate with the Association should they have any question regarding how to report a violation.
3. Identification of the Owner or resident shall remain confidential.

Exhibit B

ARTICLE VI: COVENANT FOR ASSESSMENTS

6.1 Creation of Lien and Liability for Assessments. The Association is hereby authorized to make, levy and collect the Assessments. Each Owner, by acceptance of a deed to a Parcel or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association its share of all Assessments levied against such Owner's Parcel. To the extent any Owner fails to timely pay its share of all Assessments, then, in addition to the Assessments payable by such Owner to the Association, such Owner shall also pay to the Association late charges and interest at the "Applicable Rate", being the reasonable rate as determined from time to time by the Board, and all court costs and attorneys' fees and expenses incurred by the Association to enforce or collect such Assessments. All Assessments payable by an Owner to the Association, together with late charges and interest at the Applicable Rate and all court costs and attorneys' fees and expenses incurred by the Association to enforce and collect such Assessments, if any, shall be a charge and a continuing lien upon each such Parcel. Each Owner and his or her grantees shall take title to such Parcel subject to the equitable charge and continuing lien for the payment of all Assessments, but without prejudice to the rights of such grantee to recover from his or her grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. All Assessments payable by each Owner, together with late charges and interest at the Applicable Rate and court costs and attorneys' fees and expenses incurred with respect thereto by the Association, if any, shall also be a personal obligation of the Person who was the Owner of the Parcel at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Parcel, all of the co-owners shall be jointly and severally liable for the entire amount of the Assessments assessed against such Parcel. Assessments shall commence as to each Parcel as provided in Section 6.05 below and shall be paid in such manner and on such dates as may be fixed by the Board. All Assessments shall be payable in all events without offset, diminution or abatement by reason of (a) fire or other casualty or any taking as a result of, in lieu of or anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any portion of the assessed Parcel, (b) any claim by any Owner of abandonment, non-use or waiver of the use or enjoyment of a Parcel or any part of the Common Elements, (c) inconvenience or discomfort arising from the making of any repairs or improvements, (d) any alleged failure of Declarant, the Association, the Board or other managing agent to take some action or perform some function required by the terms of the governing documents for Cheshire Parc, or (e) any other reason whatsoever.

6.02 Common Expense Assessments.

(a) Subject to the remaining terms and provisions of this Section 6.02, Common Expense Assessments must be made at least annually by the Association. Unless otherwise expressly provided by the Board, all Common Expense Assessments and any Special Assessments shall be due and payable in advance each year. Subject to the remaining terms and provisions of this Section 6.02, the Board shall determine, prepare, adopt and approve annually an annual budget covering the estimated Common Expenses for Cheshire Parc for the upcoming year, which budget

may include a contribution or reserve account. Thereafter, the budget for Common Expenses shall be deemed approved unless disapproved by the Owners as provided in the Bylaws.

(b) Following approval or deemed approval of each annual budget by the Owners in the manner provided in the Bylaws, each Owner shall pay his or her Assessment as set forth in each applicable annual budget as the projected Common Expenses for such year. As used herein, the term "Common Expense Assessments" shall mean and refer collectively to each Owner's share of Common Expenses.

(c) The failure of the Board to adopt an annual budget for Common Expenses or the failure of the Board to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification or release of any Owner from the obligation to pay Assessments. In such event, however, each Owner shall continue to pay Common Expense Assessments on the same basis as were paid during the immediately preceding year until such time as a new Common Expense Assessment is levied, at which time the Association may retroactively assess Owners for any shortfalls in collections.

(d) Any surplus funds of the Association remaining after payment of or provision for Common Expenses in any year and the prepayment of any reserves determined from time to time to be necessary or required by the Association shall be retained by the Association for disposition as determined by the Board of Directors, including, without limitation, for contribution to reserves, contribution to capital or rollover for allocation to, and/or application as a credit for payment of, subsequent years' Common Expenses.

(e) Common Expense Assessments shall be due and payable by each Owner at such time or times as the Board may determine, in its discretion, each year. The Board may, in its discretion, require that Common Expense Assessments and Special Assessments be payable either monthly, quarterly, semi-annually or annually in advance each year.

6.03 Special Assessments. In addition to the Common Expense Assessments authorized pursuant to Section 6.02 above, the Board shall have the right and power to levy and collect special assessments ("Special Assessments") in any year to cover unbudgeted Common Expenses or any extraordinary costs including, without limitation, costs which are or will be incurred for capital improvements which are not paid for from the Common Expense Assessments. Any Special Assessments must be approved by unanimous consent of the Board or by the vote of a majority in interest of Owners represented at a duly convened meeting of the Association. The Board may make Special Assessments payable in one lump sum or installments over a period of time which, in the Board's discretion, may extend beyond the then fiscal year in which such Special Assessments are levied and assessed.

6.04 Individual Assessments. The Association may, at any time and from time to time, levy and assess against any Owner individual assessments ("Individual Assessments") for any of the following: (a) any costs or expenses paid or incurred by the Association, including, without limitation, professional engineering and architectural fees and expenses and any administrative costs and expenses incurred by or on behalf of the Association as a result of the failure of any Owner, Occupant or any of their respective invitees and contractors to at all times observe and

perform their respective duties and obligations under this Declaration, (b) any maintenance, repair or replacement costs or expenses incurred by the Association as a result of the willful or negligent acts of any Owner or any Owner's Occupants, (c) reasonable monetary fines which may be established and revised from time to time by the Board as a result of the violation or breach of any of the terms and provisions of this Declaration or any other terms of any governing documents for Cheshire Parc by any Owner, Occupant or any of their respective invitees and contractors and (d) any costs, charges or other amounts payable by any Owner for any special services which the Association may have contracted for which have been or will be provided to such Owner by the Association. Any Individual Assessments levied pursuant to the terms and provisions of this Section 6.04 shall be levied by the Board and the amount and due date of such Individual Assessments shall be specified by the Board in a written notice to such Owner. Notwithstanding anything provided in this Section 6.04 to the contrary, prior to any levy of an Individual Assessment by the Association against any Owner, such Owner shall be provided with written notice of the possible levy of an Individual Assessment as well as the opportunity for such Owner to contest and/or submit in writing to the Board an excusable reason, if any, for nonpayment.

6.05 Date of Commencement of Assessments. The Board shall determine the date on which Common Expense Assessments and Special Assessments shall be levied to Owners.

6.06 Effect of Nonpayment; Remedies of the Association.

(a) The Association is hereby granted a continuing lien, with power of sale, upon each Parcel and its appurtenant undivided interest in the Common Elements, which lien secures the payment of all Assessments now or hereafter levied or subject to being levied against such Parcel or the Owner of such Parcel, together with all late charges and all attorneys' fees and expenses, court costs and all other expenses paid or incurred by the Association, including, without limitation, any and all administrative expenses incurred by the Association in connection with attempts to collect any unpaid Assessments, together with interest thereon at the Applicable Rate.

(b) To the extent any Assessments are not paid when due, then the unpaid portion of such Assessments shall bear interest from and after the due date of the same at the Applicable Rate. In addition, the Board may adopt and change from time to time a late charge which will be assessed against any Owner and the Parcel of any Owner who fails to pay Assessments within a reasonable time from the due date of such Assessments, which late charge may be in addition to interest on the unpaid portion of the Assessments at the Applicable Rate.

(c) In the event any Assessment is payable in installments, the entire amount of such Assessment shall constitute a lien from the time the first installment of such Assessment becomes due and payable and, upon any default in the payment of any installment of such Assessment, then all remaining unpaid installments shall be immediately due and payable in full and shall accrue interest at the Applicable Rate from and after the due date of the first installment of such Assessment which has not been timely paid.

(d) In the event the Association pays or incurs any costs or expenses in connection with its attempts to collect any unpaid Assessments or enforce any of the terms and provisions of this Declaration or any other terms of any governing documents for Cheshire Parc, including, without

limitation, any and all attorneys' fees and expenses, court costs, any and all administrative expenses incurred by or on behalf of the Association and any other costs and expenses of any nature paid or incurred by the Association, then such costs and expenses shall (i) also constitute Assessments hereunder which are due and payable on demand, (ii) be secured by the lien granted pursuant to Section 6.06 (a) above, and (iii) shall bear interest at the Applicable Rate from and after the date on which the Association paid or incurred any such costs or expenses.

(e) The lien granted pursuant to Section 6.06 (a) may be foreclosed by the Association in the same manner as real estate mortgages containing a power of sale may be foreclosed in the State of Alabama; provided, however, that the Association shall give reasonable advance notice of its proposed action to foreclose to the Owner and all lienholders of record of the affected Parcel. The lien granted to the Association shall also secure advances made by the Association for the payment of taxes and payments on account of superior Mortgages, liens or encumbrances which may be required to be advanced or paid by the Association in order to protect and preserve its lien. Any and all amounts paid or incurred by the Association in connection with the protection of its lien shall bear interest at the Applicable Rate from the date the same were paid or incurred by the Association and shall be secured by the lien created pursuant to Section 6.06(a) above.

(f) The lien granted herein to the Association shall be effective from and after the time that this Declaration, amended, has been recorded in the Probate Office and no further recordation to any claim of lien for Assessments under this Section 6.06 shall be required.

(g) In addition to the lien rights and foreclosure rights specified in this Section 6.06, the Association may exercise all other rights and remedies available at law or in equity in the event any Owner fails to pay Assessments when due or otherwise violates any of the terms and provisions of this Declaration. Any judgment rendered in such action shall include late charges, if any, interest on the unpaid amount due to the Association calculated at the Applicable Rate from and after the date on which such payment was due, together with attorneys' fees and expenses, court costs and all other costs and expenses paid or incurred by the Association in connection therewith, together with interest thereon at the Applicable Rate from and after any such costs and expenses were incurred or paid by the Association.

(h) The Association shall have the right and power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any Parcel.

(i) In addition to the other rights and remedies set forth in this Declaration, in the event any Owner fails to pay any Assessments by the due date for the payment of such Assessments, then until all Assessments due and owing by such Owner have been paid in full, all voting rights of such Owner under this Declaration or any of the other governing documents shall be suspended, such Owner's voting rights shall not be counted in determining whether a quorum exists or whether the requisite number of votes have been voted in any vote of the Owners.

6.07 Priority of Lien. Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Parcel shall be superior to all other liens, except: (a) liens and encumbrances affecting a Parcel recorded before the recordation of this Declaration, amended; (b) the lien of any first in priority Mortgage encumbering a Parcel

which has been recorded before the date on which the Assessments sought to be enforced became delinquent and (c) liens for real estate taxes and other governmental assessments or charges against the Parcel; provided, however, that any sale or transfer pursuant to a foreclosure of a first Mortgage shall not extinguish the lien in favor of the Association for Common Expense Assessments based on a periodic budget adopted by the Association pursuant to the terms and provisions of the Act which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien. In the event any Mortgagee exercises the foreclosure rights provided in its Mortgage and at such foreclosure sale either acquires title to or sells to a third party its interest in a Parcel, then such Mortgagee or its purchaser or transferee at such foreclosure sale shall (i) not be liable for the then unpaid portion of any Assessments or other charges incurred by the Association prior to the date of transfer or acquisition of title by foreclosure by such Mortgagee (except to the extent provided to the contrary above in this Section 6.07) but (ii) be liable for all Assessments and other charges levied, assessed or incurred or payable with respect to such Parcel for any period of time from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Parcel has been foreclosed from the personal obligation to pay all Assessments and any other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage on such Owner's Parcel. The lien created hereunder for Assessments shall not be affected by the sale, transfer, conveyance or other disposition of a Parcel except as specifically set forth above. Notwithstanding anything provided herein to the contrary, the foreclosure of any Mortgage shall not relieve the purchaser or transferee (including a Mortgagee) of any Parcel from liability for, nor the Parcel from the lien of, any Assessments made at any time on or after the occurrence of such foreclosure sale.

6.08 Certificates. Any Owner, Mortgagee, prospective Mortgagee or Person having executed a contract for the purchase of a Parcel shall be entitled, upon written request, to a statement from the Association setting forth with respect to the applicable Parcel the amount of Assessments past due and unpaid together with unpaid late charges and interest. Such request shall be delivered to the registered office of the Association and shall state the address to which the statement is to be directed. The information specified in the Association's statement shall be binding upon the Association and all Owners. The Association may charge, as a prerequisite to the issuance of such a statement, a fee which will not exceed the then applicable maximum amount which may be charged under the Act for such statements.