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COMMUNITY CHARTER

FOR

BAYWOOD OF RIVER OAKS

Baywood of River Oaks

AT LAKE MARTIN

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COMMUNITY CHARTER FOR BAYWOOD OF RIVER OAKS

PREAMBLE

BAYWOOD OF RIVER OAKS, INC., an Alabama corporation, as the "**Founder**" of Baywood of River Oaks, has established and recorded this Community Charter for Baywood of River Oaks ("**Charter**") to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, operation, maintenance, and preservation of Baywood of River Oaks. The term "Charter" is purely a term of art and the provisions set forth herein are to be given the same force and effect as if the Charter had been called by its more commonly recognized and archaic name of a "Declaration of Covenants, Conditions, and Restrictions." An integral part of the development plan is the formation of Baywood of River Oaks Owners' Association, Inc., a nonprofit corporation whose membership consists of all owners of real property in Baywood of River Oaks, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Charter and the other Governing Documents referenced in this Charter.

DECLARATION OF COVENANT

The "**Community**" referred to in this Charter consists of the property described in Exhibit "A" and any additional property made subject to this Charter in the future by amendment or supplement, as provided for in the following chapters. This Charter shall run with the title to such property, binding not only Founder, its successors and assigns, but also the future owners of any portion of the property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of such property. This Charter shall also be binding upon Baywood of River Oaks Owners' Association, Inc., its successors and assigns (the "**Association**").

PART ONE: INTRODUCTION TO THE COMMUNITY

To accomplish great things, we must not only act, but also dream; not only plan, but also believe.

Anatole France

Chapter 1

Governing Documents

A community is guided and governed by certain principles that each owner and resident, by choosing to own property or reside in the community, agree to uphold. Those principles are set forth in the community's governing documents, which serve as a tie that binds the community together, give it structure, and provide guidance to all who participate in its growth and evolution.

1.1. Scope and Applicability

The Community has been established and is administered pursuant to various documents that have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. Such documents,

GOVERNING DOCUMENTS	
Charter: (recorded)	this Community Charter for Baywood of River Oaks, which creates obligations that are binding upon the Association and all present and future owners of property in Baywood of River Oaks
Supplement: (recorded)	a recorded Supplement to this Charter, which may submit additional property to this Charter, create easements over the property described in the Supplement, impose additional obligations or restrictions on such property or designate Service Areas
Articles of Incorporation: (filed with the Probate Judge of Tallapoosa County, Alabama and the Alabama Secretary of State)	the Articles of Incorporation of Baywood of River Oaks Owners' Association, Inc., as they may be amended, which establish the Association as a nonprofit corporation under Alabama law
By-Laws: (attached as Exhibit "D")	the By-Laws of Baywood of River Oaks Owners' Association, Inc. adopted by its Board of Directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc.
Design Guidelines: (Founder adopts)	the design standards and architectural and aesthetics guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to Units, including structures, landscaping, and other items on Units
Rules: (initial set attached as Exhibit "C")	the rules of the Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within Baywood of River Oaks
Board Resolutions: (Board adopts)	the resolutions which the Board adopts to establish rules, policies, and procedures for internal governance and Association activities and to regulate the operation and use of the property which the Association owns or controls

Table 1.1 - Governing Documents

Governing Documents

referred to in this Charter as the "**Governing Documents**," include this Charter and the other documents described in Table 1.1, as they may be amended. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

1.2. Conflicts

If there are conflicts between any of the Governing Documents and Alabama law, Alabama law shall control. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents shall control.

Diagrams, tables, and explanatory text (text set apart in boxes with "key" icons) are used in the Governing Documents to illustrate concepts and assist the reader. If there is a conflict between any diagram or table and the text of the Governing Documents, the text shall control. The explanatory text set apart in the boxes are mere summaries of legal principles or explanations and have no legal force or effect.

Space has been set aside throughout this Charter to allow the reader to make notes. Any such notes are not part of this Charter and have no legal or binding effect.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

1.3. Definitions

Capitalized terms used in the Governing Documents have the meaning described in the paragraph where they first appear in bold print.

An index to defined terms may be found at the end of this Charter. All other terms used in the Governing Documents have their natural, commonly accepted definitions.

1.4. Interpretation of Certain References

Consent or Approval. All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

Discretion and Determination. All references in the Governing Documents to "**discretion**" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, any one authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

Person. References in the Governing Documents to a "**Person**" or "Persons" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

Recording. All references in the Governing Documents to a "**recorded**" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed or the filing of a legal instrument in the official records of Tallapoosa County, or such other place designated as the official location for filing documents affecting title to real estate in Tallapoosa County in order to make them a matter of public record.

Governing Documents

Community-Wide Standard. Where the Governing Documents require compliance with the "**Community-Wide Standard**," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Community, or (b) the minimum standards described in this Charter, the Design Guidelines, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the Board's or the Reviewer's (as defined in Chapter 5) discretion. The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as Baywood of River Oaks matures.

Maintenance. All references in this Charter to "**maintenance**" shall refer to maintenance, repair, and replacement.

1.5. Term and Termination



There is an old concept of law known as the "Rule Against Perpetuities" that restricts how long covenants can affect the title to land. Many jurisdictions no longer observe such rule; however, where the rule applies, the term of the covenants cannot exceed 21 years after the death of a named person who is living at the time the covenants are recorded.

This Charter shall be effective for a period of 20 years from the date it is recorded. This Charter shall be extended automatically for successive 20-year periods unless at least 90% of the then Owners and the Founder during the "Development and Sale Period," as such term is defined in Section 2.1, sign a document stating that the Charter is terminated and that document is recorded within the year before any extension.

In such case, this Charter shall terminate on the date specified in the termination document.

If any provision of this Charter would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

This section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement.

That is the best government which desires to make the people happy, and knows how to make them happy. Thomas McCauley

NOTES

Chapter 2

Community Administration

Vibrant communities depend upon all of their stakeholders working together to uphold community standards and achieve the vision and goals for the community. The Founder, the Association, the owners, the builders, and others have a role in the functioning of the community and in helping to fulfill that vision. This chapter identifies these stakeholders and describes their roles in administering the Community.

2.1. The Founder

The Founder has established the vision for the Community and, through the Governing Documents, has set forth the founding principles that will guide the Community during the initial period of development and sale and thereafter. The Founder's proposed plan for development of the Community is described in the land use plan(s), which may include, but not be limited to, the Community plat and this Charter, for Baywood of River Oaks approved by Tallapoosa County, Alabama, as it may be supplemented and amended, which encompasses all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" (the "**Master Plan**"). However, the Founder is not obligated to submit property shown on the Master Plan to this Charter. In addition, the Founder may submit property to this Charter that is not shown on the Master Plan.

The Founder has reserved various rights in the Governing Documents with respect to development and administration of the Community. The Founder may exercise certain of these rights throughout the "**Development and Sale Period**," which is the period of time during which the Founder or any "Founder Affiliate" owns real property in the Community or Founder has an unexpired option to expand the Community pursuant to Chapter 16. A "**Founder Affiliate**" is any Person that

controls, is controlled by, or is under common control with the Founder, and any Person that is an owner, a member, a partner, or a shareholder of the Founder.

Other rights may be exercised only during the "**Founder Control Period**," which is the period of time that the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). It begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

- (a) when 90% of the total number of Units permitted by applicable zoning for the property described in the Master Plan have certificates of occupancy issued thereon and have been conveyed to persons other than builders holding title for purposes of construction and resale;
- (b) December 31, 2031; or
- (c) when, in its discretion, the Founder so determines and declares in a recorded instrument.

The Founder has certain approval rights for a limited period as provided in the By-Laws after the termination of the Founder Control Period.

The Founder may assign its status and rights as the Founder under the Governing Documents to any person who takes title to any portion of the property described in Exhibit "A" or "B" for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties.

2.2. The Association

The Founder has established the Association as the primary entity responsible for administering

Community Administration

Baywood of River Oaks in accordance with the Governing Documents. The Association may exercise all rights and powers which the Governing Documents and Alabama law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

2.3. The Board

On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Alabama law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, as defined in Chapter 3, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances) and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the By-Laws.

2.4. The Owners

Each Person that holds record title to a Unit, as defined in Chapter 3, is referred to in the Governing Documents as an "**Owner.**" However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Unit is sold under a recorded contract of sale, and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Unit has more than one Owner, all Co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Community through membership in the Association and through service to the Community in various committee and leadership roles, as described in Chapters 3 and 4 and in the By-Laws.

2.5. Neighborhood Associations

Portions of the Community may be developed under a condominium form of ownership or may have special requirements that lead to the establishment of a separate homeowners association to administer additional covenants applicable to that particular area ("**Neighborhood Association**"). However, nothing in this Charter requires the creation of a Neighborhood Association, and the jurisdiction of any Neighborhood Association shall be subordinate to that of the Association.

Neighborhood Associations, if any, are responsible for administering the additional covenants applicable to the property within their jurisdiction and for maintaining, in accordance

Community Administration

with the Community-Wide Standard, any property which they own or which their respective covenants designate as being for the common benefit of their members.

2.6. Mortgagees

If a Unit is made subject to a mortgage or other form of security instrument affecting title to a Unit ("**Mortgage**"), then the holder or beneficiary of that Mortgage ("**Mortgagee**") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 15.

Chapter 3

Community Structure and Organization

The Community consists of property, referred to as Units, which are intended for the exclusive use of the Owner and other occupants of such parcel, as well as property that is intended for common use. Units may be assigned to Service Areas to permit the Association to provide special services and benefits to, and at the expense of, particular areas of the Community.

3.1. Designations of Properties Comprising the Community

Units. The Governing Documents refer to the homes and home sites in Baywood of River Oaks as "**Units.**" A Unit is a portion of Baywood of River Oaks depicted as a separately identified lot or parcel on a recorded subdivision plat, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. In the case of a building or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit. A parcel of land is considered a single Unit until a subdivision plat is recorded subdividing it into more than one Unit. The term does not include Common Areas, as defined below, common property of any Neighborhood Association, or property dedicated to the public.

Common Area. Any property and facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Unit is referred to as "**Common Area.**" The Common Area also includes any property that the Association holds under a lease and any easements in favor of the Association.

Founder may construct a boat launch for the exclusive use of Owners and such other Persons as authorized by the Founder during the Development and Sales Period and the Association thereafter.

Limited Common Area. Certain portions of the Common Area may be designated as "**Limited Common Area**" and assigned for the exclusive use or primary benefit of Units in specified portions of the Community. Limited Common Areas might include such things as entry features, and landscaped medians and cul-de-sacs, among other things.

The Founder may designate property as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the Association, or in the Supplement by which the property is submitted to the terms of this Charter. At any time during the Development and Sale Period, the Founder may assign use of the same Limited Common Area to additional Units.

Area of Common Responsibility. All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "**Area of Common Responsibility,**" regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way. The initial Area of Common Responsibility is described in Chapter 9.

Community Structure and Organization

3.2. Service Areas

Units may also be part of one or more "Service Areas" in which the Units share Limited Common Areas or receive special benefits or services from the Association that it does not provide to all Units within the Community. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

The Founder may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners of at least 67% of the Units affected by the proposed designation pursuant to Section 10.2.

The Owners of Units within each Service Area may elect a "Service Area Committee" in accordance with the By-Laws to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

Chaos is the law of nature; order is the dream of men. Henry Adams

NOTES AND THOUGHTS

Chapter 4

Association Membership and Voting Rights

The Association is an entity through which each Owner can participate in the governance and administration of Baywood of River Oaks. While many powers and responsibilities are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in the Owners allow the Owners to participate in administration of the Community and influence the outcome of major decisions.

4.1. Membership

The Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, and the Founder membership, which consists solely of the Founder.

(a) Owner Membership. Every Owner is automatically a member of the Association. However, there shall be only one membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any Common Area recreational facilities available for use by members.

(b) Founder Membership. The Founder holds the sole Founder membership. The Founder membership shall terminate two years after expiration of the Founder Control Period, or on such earlier date as the Founder determines and declares in a recorded instrument.

4.2. Voting

Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Charter and the other Governing Documents. No vote shall be exercised for any property exempt from assessment under Section 12.8. Further, during such time as there is a Founder membership, no vote shall be exercised for Units that the Founder owns; rather, the Founder's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

If there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners holding a majority of the ownership interest in the Unit determine among themselves. Any co-Owner may cast the vote for the Unit and majority agreement shall be conclusively presumed unless another co-Owner of the Unit protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of majority agreement, the Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently.

*Good order is the foundation of all things.
Edmund Burke*

PART TWO: COMMUNITY STANDARDS

The price of greatness is responsibility.

Winston Churchill

Chapter 5

Architecture, Landscaping and Aesthetic Standards

The Community derives its unique character from a mix of compatible architectural styles and from the cooperation of all Owners in upholding minimum design, landscaping, and aesthetic standards. This chapter explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Units.

5.1. General

All site work, landscaping, structures, improvements, and other items placed on a Unit, including any initial construction on a Unit, other than those not visible from outside of any existing structure on a Unit, ("**Improvements**") are subject to standards for design, landscaping and aesthetics adopted pursuant to this chapter ("**Design Guidelines**") and the approval procedures set forth in this chapter, except as this chapter or the Design Guidelines may otherwise specify.

Notwithstanding any other provision set forth in the Governing Documents or in the approval of any governmental agency, no dock, dock like structure, or seawall (collectively referred to hereafter as a "dock") shall be constructed, erected, or placed, permanently or temporarily, on the outside portion of a Unit, over the Common Area, over the Area of Common Responsibility or over any real property (including any body of water) adjacent to Baywood of River Oaks, without the prior written consent and approval of Founder or its designee. The Founder, in its sole and absolute discretion, shall determine if any structure is to be considered a "dock" for the purposes of the Charter. Such approval may be granted or withheld by Founder, or its designee, in its sole and absolute discretion. Founder, in its sole and absolute discretion, shall determine whether

anything so constructed, erected, or placed is a dock.

Founder shall grant or withhold such consent and approval only after reviewing all plans and specifications (including, colors, lighting, furnishings, and any other information it may require) submitted by or on behalf of the Owner of the Unit.

Without the prior written consent of Founder, nothing shall be constructed, erected, or placed, temporarily or permanently, on any dock (including barbecue grills, cooking areas, furniture and umbrellas) and a dock may not be modified in any manner.

Founder may prohibit specific types of activities on or from any dock, including, but not limited to, parties or other gatherings which radiate an unacceptable level of light or noise. Founder may also impose standards regulating the number, condition, appearance, maintenance, and operation of watercraft moored or operated from any dock, including, but not limited to, prohibiting watercraft which emit excessive noise and personal watercraft. No Owner may grant an easement over his or her Unit to another Person without the prior written consent of the Founder during the Development and Sale period and the Association thereafter.

All docks shall be properly maintained and not permitted to fall into a state of disrepair. Founder, in its sole and absolute discretion, shall determine the appropriate maintenance level and repair of any and all docks.

No prior approval from the Reviewer is necessary to repaint the exterior of structures on any Unit using the most recently approved color scheme or to rebuild or restore any damaged structures on a Unit in a manner consistent with

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the plans and specifications most recently approved for such structures so long as undertaken in accordance with the procedures set forth in this chapter. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a Unit visible from outside a structure do require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect or home designer approved by Reviewer.

Approval under this chapter is not a substitute for any approvals or reviews required by the City of Alexander City, Alabama, Tallapoosa County, the Alabama Power Company, its successors or assigns, Alabama Department of Public Health, Alabama Department of Environmental Management, or any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

This chapter shall not apply to the Founder's design and construction activities or to the Association's activities during the Founder Control Period.

5.2. Design Review Authority



Until the *Founder* gives up such right, it will review applications for proposed Improvements and determine whether they should be approved. Once the Founder gives up such review right, the Board of Directors will appoint a Design Review Committee to review applications for proposed improvements. The Founder or the Design Review Committee is referred to as the "Reviewer." The Reviewer sets fees for reviewing applications.

(a) Founder. The Founder shall have exclusive authority to review and act upon all applications for review of proposed Improvements until the later of the termination

of the Founder Control Period, the Development and Sale Period, or such times as all Units planned for the property described in Exhibit "A" and "B" have been improved with dwellings for which a certificate of occupancy has been issued. The Founder may designate one or more persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, the Founder and its designee act solely in the Founder's interest and owe no duty to any other Person.

From time to time, the Founder may delegate any or all of its rights under this chapter to other Persons or committee, including the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Founder's right to revoke such delegation at any time and reassume its prior control, and (ii) the Founder's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable. So long as the Founder has any rights under this chapter, the jurisdiction of others shall be limited to such matters as the Founder specifically delegates.

(b) Design Review Committee. Upon the Founder's delegation of authority pursuant to Section 5.2(a), or upon expiration or termination of the Founder's rights under this chapter, the Board shall appoint a Design Review Committee ("**Design Review Committee**" or "**DRC**") to assume jurisdiction over matters within the scope of the delegated authority or this chapter, respectively, including the right to establish completion dates for Improvements, and bonding requirements. The DRC shall consist of at least three, but not more than seven, persons, who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. The Association may compensate DRC members in such manner and amount, if any, as the Board may determine appropriate.

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Until expiration of the Founder's rights under this chapter, the DRC shall notify the Founder in writing within three business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this chapter. A copy of the application and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC.

Unless and until such time as the Founder delegates all or a portion of its reserved rights to the DRC or the Founder's rights under this chapter terminate, the Association shall have no jurisdiction over architectural matters.

(c) Reviewer. For purposes of this chapter, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer.**"

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application. The Board may include the compensation of such persons in the Association's annual operating budget.

The Reviewer may also require the posting of a construction deposit to ensure that any wear and tear on the infrastructure of the Community is repaired once construction is complete.

5.3. Guidelines and Procedures



The purpose of the Design Guidelines is to maintain a consistent character and quality of appearance for the Improvements within the community and to ensure that Improvements are constructed in an orderly manner. The Design Guidelines may describe what types of building materials and design elements are preferred and others that are discouraged. The Design Guidelines also provide a specific procedure for submitting applications for proposed Improvements and describe how to carry out the construction of the Improvements once approval has been received.

(a) Design Guidelines. The Founder shall prepared the initial Design Guidelines, which may contain general provisions applicable to all of Baywood of River Oaks as well as specific provisions that vary among uses or locations within the Community. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Founder shall have sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2(a). The Founder's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the DRC, unless the Founder also delegates the power to amend to the DRC. Upon termination or delegation of the Founder's right to amend, the DRC may amend the Design Guidelines with the Board's consent.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work undertaken on a Unit or

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any new work undertaken on previously completed structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and their contractors upon request. In the Founder's discretion, such Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Unless the Design Guidelines provide otherwise, no activities within the scope of this chapter (as described in Section 5.1) may begin on any property within Baywood of River Oaks until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Chapter 18 or judicial review so long as they are made in good faith and in accordance with required procedures.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information. The Reviewer may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Reviewer may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application after its receipt of a completed application and all required submissions; however, with respect to any DRC determination subject to the Founder's veto right under Section 5.2(b), the Reviewer shall notify the Founder prior to notifying the applicant. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Reviewer fails to respond within 45 days of its receipt of all required submissions, the application shall be deemed denied.

As part of any approval, the Reviewer may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer, in its discretion, grants an extension in writing.

The Reviewer may exempt certain activities from the application and approval requirements of this chapter if such activities are undertaken in

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compliance with the Design Guidelines and the Community-Wide Standard.

Additionally, certain waterfront construction or modifications may require the approval of the Alabama Power Company. In such circumstances, any Owner must submit its construction or modification request to the Reviewer for approval prior to submitting such request to the Alabama Power Company. The Reviewer has no authority over any decision made by the Alabama Power Company, and any request first approved by the Reviewer and subsequently disapproved by the Alabama Power Company must be disallowed. Conversely, if any Owner obtains the approval of the Alabama Power Company and has not submitted such request to the Reviewer and obtained the Reviewer's prior approval, the Reviewer shall have all of the remedies set forth in Chapter 8 for such non-compliance.

(c) Appeals Process. After the Board's appointment of the DRC, an applicant may appeal any disapproval of its application to the Board. To request an appeal, the applicant must submit to the Association's Secretary, no later than 15 days after the delivery of the notification of disapproval, a copy of the original application, the notification of disapproval, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval listed in the notification of disapproval. The Board may (i) affirm the DRC's decision, (ii) affirm a portion and overturn a portion of the DRC's decision, or (iii) overturn the DRC's entire decision. The Board shall notify the applicant and the DRC in writing of its decision no later than 30 days after its receipt of the request for appeal with all required information. The Board's decision shall include a description of its reasons for overturning the DRC's decision. During the appeal process the Owner shall not commence any work requiring approval hereunder.

5.4. No Waiver of Future Approvals

The people reviewing applications under this chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may elect not to require changes to objectionable features. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.5. Variances



When unusual circumstances exist that make it difficult or impossible to comply with a particular requirement of the Design Guidelines, the Owner may file a request with the Reviewer to be excused from complying with such requirement. The Reviewer has the discretion to determine when a variance is appropriate.

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when it determines that circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations justify such a variance, however, the Reviewer shall under no circumstances be obligated to grant variances. No variance shall (a) be effective unless in writing; (b) be contrary to this Charter; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires the Founder's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.

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5.6. Limitation of Liability

This chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of Baywood of River Oaks; they do not create any duty to any Person. Review and approval of any application pursuant to this chapter may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Founder, any of its officers, directors, or partners or any officer or director of any partner, the Association, its officers, the Board, any committee, and a member of any of the foregoing shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Founder has approved or featured such contractor to construct Improvements with Baywood of River Oaks; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Association shall defend and indemnify the Founder, any of its officers, directors, or partners or any officer or director of any partner, the Board, the DRC, and the members of each, as provided in the By-Laws.

5.7. Certificate of Compliance

Any Owner may request in writing that the Reviewer issue a certificate of compliance certifying that there are no known violations of this chapter or the Design Guidelines. The

Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

*We shape our buildings and our
buildings shape us. Winston Churchill*

NOTES

Chapter 6

Maintenance, Repair, and Replacement

One of the benefits of owning property in a planned community is the commitment among neighbors to maintain their property in a neat, attractive, and well-landscaped condition to enhance the overall beauty and aesthetic appeal of the community. This chapter describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed.

6.1. Maintenance of Units

Each Owner shall maintain his or her Unit, including all structures, landscaping, and other improvements comprising the Unit, in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to this Charter, any Supplement, or by law. In the event such entity fails to maintain a Unit, the Owner of the Unit shall be responsible for such maintenance.

6.2. Maintenance of Neighborhood Association Property

A Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

The Association may assume maintenance responsibility for property in any Neighborhood Association, either upon designation of the Neighborhood Association as a Service Area pursuant to Section 3.4 or upon the Board's determination, pursuant to Chapter 8, that the level and quality of maintenance then being provided is not consistent with the Community-

Wide Standard. Such maintenance shall be assessable against all Units in the benefited Neighborhood Association as a Service Area Assessment, as provided in Section 12.2(c). The Association need not treat all similarly situated Neighborhood Associations the same.

6.3. Responsibility for Repair and Replacement

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either a Neighborhood Association (if any) or the Association carries such insurance (which they may but are not obligated to do). If the Association assumes responsibility for insuring a Unit, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

As soon as possible, but under no circumstances more than three months after any damage to or destruction of a structure on a Unit, the Unit's Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Unit of debris and maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard.

Maintenance, Repair, and Replacement

The Owner shall pay any costs that insurance proceeds do not cover.

Additional recorded covenants applicable to any Service Area may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

This Section shall apply to a Neighborhood Association with respect to common property within the Neighborhood Association in the same manner as if the Neighborhood Association was an Owner and the common property was a Unit.

6.4. Maintenance and Repair of Party Walls and Similar Structures

Each wall, fence, driveway, or similar structure built as part of the original construction on the Units that serves and/or separates any two adjoining Units shall be considered a party structure.

To the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute concerning a party structure shall be subject to the provisions of Chapter 18.

*Any activity becomes creative when the doer
cares about doing it right, or doing it better.*
John Updike

NOTES

Chapter 7

Use and Conduct

To maintain a residential environment that encourages respect for and courtesy among neighbors and minimizes the potential for disputes, this chapter sets forth basic standards regarding use, occupancy, and transfer of interests in Units. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct, and activities within the Community to address particular needs and desires of the Community over time.

7.1. Use, Occupancy, and Transfer of Interests in Units

(a) Residential and Related Uses. Units may be used only for residential and related purposes, except as the Founder may otherwise authorize with respect to construction, marketing, and sale activities of the Founder. A business activity shall be considered "related" to a residential use and thus permitted under this section only if conducted by a person or persons residing in the Unit and only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve regular visitation of the Unit by employees who do not reside in the Unit, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community;

(iv) is consistent with Baywood of River Oaks's residential character and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing a Unit for residential purposes shall not be considered a "business" within the meaning of this subsection, provided that the Owner and any other Owners with whom such Owner is affiliated do not collectively lease or offer for lease more than one Unit at any time. This provision shall not preclude an institutional lender from leasing a Unit upon taking title following foreclosure of its security interest in the Unit or upon acceptance of a deed in lieu of foreclosure.

(b) Leasing. For purposes of this Charter, the terms "**Lease**" and "**Leasing**" shall refer to the regular, exclusive occupancy of a Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit. Any dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased; however, any detached "in-law suite" or "guest house" approved pursuant to Chapter 5 may be leased only with prior approval from the Association. The minimum lease term for any Unit is six months.

All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing

Use and Conduct

Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

Within 10 days of a lease being signed, the Owner of the leased Unit shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner must give the tenant copies of the Governing Documents. In addition to, but consistent with this subsection, the Association or the Board may adopt Rules governing leasing and subleasing.

(c) Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

Any Owner selling or otherwise transferring title to his or her Unit is responsible for providing a complete set of the then-current Governing Documents to the prospective purchaser prior to closing. In the event such selling Owner does not provide a copy of the Governing Documents to the prospective purchaser prior to closing, such selling Owner shall be fully liable for any problem which arises in connection therewith.

(d) Subdivision and Combination of Units. No Person other than the Founder, or with the Founder's consent during the Founder Control Period, shall subdivide or change the boundary lines of any Unit or combine Units without the Board's prior written approval. Any such action that the Board approves shall be

effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). Adjacent Units owned by the same Owner shall continue to be treated as separate Units for purposes of voting and assessment, even though such Units may be improved with a single dwelling; therefore, the Owner of such Units shall be responsible for the separate assessments for each of such Units.

(e) Timesharing. No Unit shall be used for operation of a timesharing, fraction-sharing, residence club, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, unless such program is established by the Founder or with the Founder's prior written approval.

7.2. Rulemaking Authority and Procedures



Since it is impossible to foresee all potential situations and problems that may arise within the community, the Association has the authority to adopt and modify rules as needed to address these changing circumstances.

The Governing Documents establish a framework of covenants and conditions that govern the Community. The initial Rules attached as Exhibit "C" are a part of that framework. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Owners are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.3.

(a) Board Authority. Subject to the notice requirements in subsection (c) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its members, the Board may adopt new Rules and modify or

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rescind existing Rules by majority vote of the directors at any Board meeting.

(b) *Membership Authority.* Subject to the notice requirements in subsection (c), the Owners representing a majority of the votes in the Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Founder membership exists, any such action shall also be subject to the Founder's approval.

(c) *Notice.* The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board or the Owners at which such action is to be considered. At any such meeting, Owners shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

This notice requirement does not apply to administrative and operating policies that the Board may adopt relating to the Common Areas, such as hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules.

(d) *Effective Date.* A Rules change adopted under this section shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners.

(e) *Conflicts.* No action taken under this section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Charter other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules and any provision of this Charter (exclusive of the Rules), the Charter shall control.

7.3. Protection of Owners and Others

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," all Rules shall comply with the following provisions:

(a) *Similar Treatment.* Similarly situated Units shall be treated similarly; however, the Rules may vary by Neighborhood Association or Service Area.

(b) *Displays.* No Rule shall prohibit an Owner or occupant from displaying political, religious, or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods, nor shall any Rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside structures on the Unit, including signs advertising the Unit for sale and other reasonable limitations on size and number. Flag poles are not permitted on any Unit, and any flag displayed must be appropriately mounted to the exterior of the Unit.

(c) *Household Composition.* Occupancy of each Unit shall be limited to that number of persons equal to the number of bedrooms in the Unit (as depicted on the plans approved in accordance with Chapter 5) plus two additional persons, except that this restriction shall not be applied to preclude occupancy of a Unit by a family consisting of two persons and one or more children under the age of 18 for whom either or both of such persons are the parent, legal custodian, or designee authorized in writing by the child's parent or legal custodian to care for the child. For purposes of this subparagraph (c), "occupancy" means staying overnight in a Unit for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year.

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(d) *Activities Within Dwellings.* No Rule shall interfere with the activities carried on within a dwelling, except that the Association may, but is not obligated to, prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

(e) *Allocation of Burdens and Benefits.* No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Chapter 12.

(f) *Leasing and Transfer of Units.* No Rule shall prohibit the leasing or transferring of any Unit or require approval prior to leasing or transferring a Unit; however, the Rules may require a minimum lease term which may vary by Neighborhood Associations or Service Areas. Notwithstanding anything to the contrary, the lease of a Unit improved with a single family residence may be leased only once in a 12-month period for a minimum term of at least six months. The Rules may also require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.



The following provision protects the existing personal property of Owners. It is intended to prevent a situation in which a specific thing was allowed, the Board or the Community decided to prohibit it, and then an Owner is forced to dispose of the thing that was previously allowed. For example, if basketball goals are allowed in driveways and then a Rule is passed prohibiting basketball goals, the Board cannot force the Owners who have basketball goals at that time to remove them. However, it can enforce this Rule against any other Owner desiring to install one. In addition, if an Owner sells his or her Unit and takes down their basketball goal, the new Owner cannot install another.

(g) *Abridging Existing Rights.* No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

(h) *Reasonable Rights to Develop.* No Rule may unreasonably interfere with the Founder's ability to develop, market, and sell property in Baywood of River Oaks.

(i) *Interference with Easements.* No Rule may unreasonably interfere with the exercise of any easement.

(j) *Interference with Private Amenity.* No Rule or action by the Association or Board shall interfere with the use or operation of any property owned or administered by a Private Amenity.

7.4. Owners' Acknowledgment and Notice to Purchasers

By accepting a deed, each Owner acknowledges and agrees that the use,

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enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

7.5. Lake Martin

By accepting a deed to a Unit, each Owner acknowledges that neither Founder nor the Association is responsible for the maintenance or operation of the navigable body of water adjacent to the Community more commonly known as Lake Martin. All Persons are hereby advised that no representations or warranties have been or are made by the Founder, the Association, or by any Person acting on behalf of any of the foregoing with regard to the maintenance or operation of Lake Martin including, but not limited to, the ability to fish, swim, boat, or otherwise use Lake Martin for any purpose, including the construction or use of any dock, or the water level of Lake Martin, which may be raised or lowered at any time. Neither Founder nor the Association shall be responsible for any loss, damage, injury, or death to any Person or property arising out of the authorized or unauthorized use of Lake Martin.

Neither Founder, Founder Affiliates, nor any parent, subsidiary or related company of each, has any ownership interest in or any authority or control over the waters of Lake Martin. The states of Alabama, Georgia and Florida are presently contesting issues related to water usage, including quantity and quality, which may affect the water quality of Lake Martin. Neither Founder, Founder Affiliates, nor any parent, subsidiary or related company of each, has any influence in the dispute and cannot predict the

possible outcome or effect on the waters of Lake Martin or the quality or quantity of water of Lake Martin. Municipalities and industries discharge wastewater into Lake Martin through publicly owned wastewater treatment facilities. The City of Alexander City has relocated the discharge point of its wastewater treatment facility from Sugar Creek to the main channel of the Tallapoosa River. Neither Founder, Founder Affiliates, nor any parent, subsidiary or related company of each, makes any representation concerning the effect, if any, of these discharges and the relocation of the discharge to the Tallapoosa River. Septic, agricultural and other domestic runoff into Lake Martin by state parks, residential homeowners, recreational homeowners, and others in and around Lake Martin may exist. Neither Founder, Founder Affiliates, nor any parent, subsidiary or related company of each, makes any representation concerning the effect, if any, of such runoff into the waters of Lake Martin.

*A few strong instincts and a few plain rules
suffice us. Ralph Waldo Emerson*

NOTES

Chapter 8

Compliance and Enforcement

The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Community. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This chapter sets forth the obligation to comply and the remedies available to the Association for noncompliance.

8.1. Compliance



All Owners and occupants of Units, as well as their tenants, guests, and other visitors, must abide by the Governing Documents. If any of them fail or refuse to comply with the Governing Documents, they may be subject to various penalties, including fines and the loss of the right to use the Common Areas.

Every Owner, occupant, and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or invitees to their Units, and for any damage to the Area of Common Responsibility that such Persons may cause.

8.2. Remedies for Non-Compliance

The Association, the Founder and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those sanctions listed below and any others described elsewhere in the Governing Documents.

(a) Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may:

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, tenant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspend an Owner's right to vote (except that no hearing is required if the Owner is more than 90 days delinquent in paying any Base or Special Assessment);

(iii) suspend any Person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation (except that no hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed the Association); provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspend services the Association provides (except that no hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association);

(v) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including

Compliance and Enforcement

removing personal property that violates the Governing Documents);

(vi) without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Chapter 5, including the Design Guidelines, from continuing or performing any further activities in Baywood of River Oaks;

(vii) levy Specific Assessments to cover costs the Association incurs in bringing a Unit into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(viii) record a notice of violation with respect to any Unit on which a violation exists.

(b) Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation on a Unit in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner or a Neighborhood Association, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on the Neighborhood Association's property, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner or Neighborhood Association fails to take action as required pursuant to subsection (iii) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(v) bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both.

(c) Additional Powers Relating to Neighborhood Associations. In addition to the foregoing sanctions, the Association shall have the power to veto any action that a Neighborhood Association proposes to take if the Board reasonably determines the proposed action to be adverse to the interests of the Association or its members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement

Compliance and Enforcement

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action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4. Attorneys Fees and Costs

In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

8.5. Enforcement of Ordinances

The Association, by contract or other agreement, may enforce applicable city and county ordinances. In addition, Tallapoosa County or Alexander City may enforce ordinances within Baywood of River Oaks.

People need to be reminded more often than they need to be instructed. Samuel Johnson

PART THREE: ASSOCIATION OPERATIONS

Do what you can, with what you have, where you are.

Theodore Roosevelt

Chapter 9

Property Management

One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of Baywood of River Oaks. This chapter establishes the Association's obligation to accept property that the Founder designates as Common Area or Limited Common Area and to maintain, operate, and insure it, along with certain other properties, for the benefit of Baywood of River Oaks.

9.1. Acceptance and Control of Association Property

(a) Transfers and Conveyances by Founder. The Founder and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests.

Upon the Founder's written request, the Association shall reconvey to the Founder real property that the Founder originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

(b) Management and Control. The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate. The Association may permit use of Common Area facilities by persons other than

Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

9.2. Maintenance of Area of Common Responsibility

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

(a) the Common Area;

(b) landscaping within public rights-of-way abutting Baywood of River Oaks to the extent that responsible governmental authorities do not maintain it to the Community-Wide Standard;

(c) such portions of any additional property as may be dictated by the Founder, this Charter, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association (including any agreement with any governmental and quasi-governmental entity); and

(d) any property and facilities that the Founder owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Founder shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Founder revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property it does not own, including, without limitation, Units, property dedicated to the public, property owned or maintained by a Neighborhood Association if the Board determines that such

Property Management

maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

The Association may, but shall not be required, provide insect, pest, and aquatic control to the extent that it is necessary or desirable to supplement any such control provided by state or local governmental body. The Association shall have a perpetual easement over the Community for the purpose of dispensing pesticides and to take other action is necessary or desirable to control insects or vermin.

9.3. Discontinuation of Operation

The Association shall maintain the Common Area facilities in continuous operation unless the Founder, during the Development and Sale Period, and Owners representing 75% of the total votes in the Association, consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least 75% (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. This section shall not apply to restrict the Board's ability to establish reasonable operating hours, which may vary by season, nor to preclude temporary closures or interruptions in operation as the Board may determine appropriate to perform maintenance or repairs.

9.4. Restoring Damaged Improvements



This provision ensures that desirable Common Area improvements will be replaced if destroyed, but it also makes it possible *not* to repair or rebuild if the Owners who benefit from the Common Area do not want it anymore.

In the event of damage to or destruction of portions of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged Common Area improvements unless the Founder, during the Development and Sale Period, and Owners representing at least 75% of the total votes in the Association, decide within 60 days after the loss not to repair or reconstruct. If the damage is to Limited Common Area or Units within a Service Area, any decision not to restore the damaged improvements shall also require the approval of at least 75% of the Owners of Units in the affected Service Area. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. No Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain and place in a capital improvements account for the benefit of all Owners, or the Owners of Units within the affected Service Area, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This

Property Management

is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.4.

9.5. Relationships with Other Properties

The Association may contract with the owner of any neighboring property or Private Amenity for sharing of costs associated with (a) maintenance and operation of mutually beneficial properties or facilities, or (b) provision of mutually beneficial services.

*We cannot escape the responsibility of tomorrow
by evading it today. Abraham Lincoln*

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Chapter 10

Provision of Services

In addition to its property management role, the Association is a vehicle for providing a variety of services for the benefit of the Community at large and individual Units.. This chapter describes some of the services the Association may provide and the mechanism by which it may provide varying levels and types of services to different areas of the Community.

10.1. Provision of Services to Units

The Association may, but is not obligated to, arrange for or provide services to Owners and their Units, directly or through contracts with the Founder or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to all Units, or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, security, trash collection, landscape maintenance, pest control, caretaker services and technology services.

Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as a Common Expense or Service Area Expense pursuant to Chapter 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

10.2. Provision of Services to Service Areas

(a) Service Areas Designated by Founder.

The Association shall provide services to Units within any Service Area designated by the Founder pursuant to Section 3.4 as required by the terms of any Supplement applicable to the Service Area.

(b) Service Areas Designated by Board.

In addition to Service Areas which the Founder may designate pursuant to Section 3.4, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (i) special benefits or services which are not provided to all Units, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Units within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If Owners of at least 67% of the Units within the proposed Service Area approve the proposal in writing, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

Provision of Services

*I think there is a world market for maybe five
computers.*

Thomas Watson, Chairman of IBM, 1943

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Chapter 11

Association Insurance

The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This chapter describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.

11.1. Required Coverages

The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on;

(i) the Common Area;

(ii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty; and

(iii) any Service Area, to the extent specified or authorized by any applicable Supplement.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

In addition, if a Supplement so specifies, the Association shall obtain and maintain property insurance on the insurable improvements within

a Service Area, which insurance shall comply with the above requirements.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage; and

(e) Any other type of coverage required by law or secondary mortgage holders.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Lake Martin area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this section requires.

Association Insurance

11.2. Deductibles



The Board may hold any Persons who cause damage to insured improvements responsible for the insurance deductible payable on any insurance claim related to such damage.

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

11.3. Policy Requirements



Subrogation is a legal concept which means the substitution of one person in the place of another with respect to a certain lawful claim, demand, or right so that the person who is substituted stands in the place and receives the rights of the other person in relation to the claim, demand, or right. For example, insurance companies generally have the right to step into the shoes of the party whom they compensate and sue any party whom the compensated party could have sued.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Alabama which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Units within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(d) contain an inflation guard endorsement;

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner, excluding the amount of any deductible; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds and provide:

Association Insurance

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

(b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

11.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be a Service Area Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

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Chapter 12

Association Finances

This chapter provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments which this chapter authorizes the Association to levy against the Units and collect from the Owner of each Unit. Assessments are secured by a lien on each Unit as described in this chapter.

12.1. Association Expenses

(a) Common Expenses. Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "**Common Expenses.**" Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate.

Common Expenses shall not include any expenses incurred during the Founder Control Period for initial development or original construction costs unless Owners (other than Founder appointees) representing a majority of the total vote in the Association approve such expenditure. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses

incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements.

(b) Service Area Expenses. All expenses that the Association incurs or expects to incur in connection with the ownership, maintenance and operation of Limited Common Areas, or in providing other benefits and services to a Service Area, if any, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area as the Board finds necessary or appropriate, are considered "**Service Area Expenses.**" Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

12.2. Budgeting for and Allocating Association Expenses.

(a) Preparation of Budget. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area, if any, reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget may include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable, as the board finds necessary or appropriate. In determining

Association Finances

the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected needs by annual contributions over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units (including amounts to which the Association is entitled pursuant to any covenant or agreement to share costs), and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to Subsections (b) and (c).

(b) Calculation of Base Assessments. The total budgeted Common Expenses, less any surplus in the Common Expense budget from prior years not designated for reserves and any income anticipated from sources other than assessments against the Units, shall be allocated equally among all Units subject to assessment under Section 12.5 and levied as a "**Base Assessment.**"

The Founder may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

(c) Calculation of Service Area Assessments. The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area budget from prior years, shall be allocated among all Units in the Service Area that are subject to assessment under Section 12.4 and levied as a "**Service Area Assessment.**" Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Unit in the Service Area, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Notice of Budget and Assessment; Right to Disapprove. The Board shall send a copy of each applicable budget, together with notice of the amount of the Base Assessment and any Service Area Assessment to be levied pursuant to such budgets, to each Owner at least 30 days prior to the due date of the assessments to be levied pursuant to such budget. The Common Expense budget shall automatically become effective unless the Base Assessment is more than 20% greater than the Base Assessment for the immediately preceding fiscal year. In the event the current years Base Assessment is more than 20% greater than the Base Assessment for the immediately preceding fiscal year, the budget shall become effective unless disapproved at a meeting by Owners of at least 75% of the total votes in the Association and by the Founder Member, if such exists. Each Service Area budget shall automatically become effective in the same manner set forth above unless disapproved at a meeting by Owners of at least 75% of the

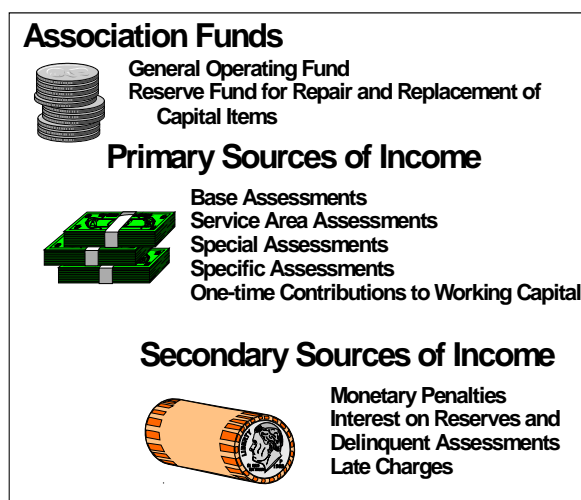
Association Finances

Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget in excess of 20% except, in the case of the Common Expense budget, on petition of the Owners of Units representing at least 67% of the total votes in the Association, and in the case of a Service Area budget, on petition of Owners of at least 67% of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If the Board fails for any reason to determine the budget for any year, then the budget most recently in effect, increased by 10%, shall continue in effect until a new budget is determined.

(e) **Budget Revisions.** The Board may revise the budget and adjust the Base Assessment or Service Area Assessments anytime during the year, subject to the same notice requirements and rights to disapprove set forth in subsection (d) above.



12.3. Special Assessments

The Association may levy "**Special Assessments**" to cover Common Expenses or Service Area Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Except as otherwise specifically provided in this Charter, any Special Assessment for Common Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the votes attributable to Units subject to assessment under Section 12.5 and shall be allocated equally among all such Units. Any Special Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.1(b). In addition, as long as the Founder membership exists, any Special Assessment shall also be subject to the Founder's written consent. Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

12.4. Specific Assessments

The Association may levy "**Specific Assessments**" against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of optional services which the Association may offer (which might include the items identified in Chapter 10). Specific Assessments for optional services may be levied in advance of the provision of the requested service;

Association Finances

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this Subsection (b); and

(c) to cover the Unit's pro rata share of any costs that the Association incurs in bringing the Service Area of which the Unit is a part into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Owners of Units in the Service Area and an opportunity for such Owners to be heard before levying any such assessment.

12.5. Authority to Assess Owners; Time of Payment

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following the date on which the Unit is made subject to this Charter. The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If

any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

12.6. Obligation for Assessments



By buying a Unit in Baywood of River Oaks each Owner agrees to pay all assessments levied against his or her Unit. If the Owner does not pay on time, that Owner will be charged late fees on all past due amounts. Owners may not claim a reduction in their assessments due to action or inaction by the Association.

(a) Personal Obligation. By accepting a deed or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Alabama law), late charges as determined by Board resolution, costs, and reasonable attorneys fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

Association Finances

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Founder's Financial Obligations to Association. The Founder shall be liable for assessments on any Units it owns that are subject to assessment under this section, except that during the Founder Control Period, the Founder may satisfy its obligation to pay Base Assessments and Special Assessments for Common Expenses on Units it owns either by paying such assessments in the same manner as any other Owner, or by paying (i) any shortfall under the Common Expense budget resulting from events other than failure of other Owners to pay their assessments, and (ii) any budgeted contributions to reserves in accordance with the Common Expense budget. Unless the Founder otherwise notifies the Board in writing at least 30 days before the beginning of each fiscal year, the Founder shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. After termination of the Founder Control Period, the Founder shall pay Base Assessments on any Units

it owns that are subject to assessment under Section 12.5 in the same manner as any other Owner liable for such assessments.



During the Founder Control Period, the Founder may choose to pay the difference between the Association's budgeted and actual expenses, rather than paying assessments on the Units it owns.

Regardless of the Founder's election under this section, any of the Founder's financial obligations to the Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

12.7. Lien for Assessments



To insure that each Owner pays his or her assessments, the Association has a lien against the Units when assessments are not paid in a timely fashion. This means that if an Owner does not pay his or her assessments on time, the Association could foreclose the lien, thus causing the Owner's Unit to be sold to pay the past due assessments. Alternatively, the Association may sue an Owner in court to recover past due assessments.

(a) Existence of Lien. The Association shall have a lien against each Unit to secure payment of assessments, as well as interest, late charges (subject to the limitations of Alabama law), and costs of collection (including attorneys fees and expenses). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute

Association Finances

and record a document setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

(b) Enforcement of Lien. The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) Effect of Sale or Transfer. Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 12.6, including such acquirer, its successors and assigns.

12.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

- (a) All Common Area;
- (b) Any property dedicated to and accepted by any governmental authority or public utility; and
- (c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, the Association may, by resolution, grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Charter for purposes listed in Section 501(c) of the Internal Revenue Code.

12.9. Capitalization of Association

Upon acquisition of record title to a Unit by any Person other than the Founder, the Owner shall make a contribution to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be considered an advance payment of such assessments. This amount shall be due and payable to the Association immediately upon transfer of title, for its use in covering initial start-up expenses, operating expenses and other expenses which it incurs pursuant to this Charter and the By-Laws.

12.10. Use and Consumption Fees

The Board may charge use, consumption, and activity fees to any Person using Association

Association Finances

services or facilities or participating in Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

NOTES

PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

You don't get harmony when everybody sings the same note.

Doug Floyd

Chapter 13

Easements

The easements created in this chapter establish the rights of Owners to use the Common Area and create various rights for the benefit of owners, the Founder, the Association, and others over property within the Community. Some of these rights are related to development and construction within the Community and on adjacent property, while others relate to the rights of Association to come upon property of others to fulfill its responsibilities and the interrelationships between the Community and the owners of adjacent property.

13.1. Easements in Common Area



An easement is one person's right to go onto the property of another.

The Founder grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) Certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area;" and
- (d) The Board's right to:
 - (i) adopt rules regulating Common Area use and enjoyment, including rules limiting the number of guests who may use the Common Area, and to charge use fees for such use;
 - (ii) suspend an Owner's right to use Common Area facilities;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Charter;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) rent any portion of the Common Areas on an exclusive or non-exclusive short-term basis to any Person;

(vi) permit use of any recreational facilities situated on the Common Area by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion; and

(vii) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

13.2. Easements of Encroachment



An encroachment occurs when a person's home, fence, or structure of any kind is placed on his or her neighbor's property. This section provides that minor, inadvertent encroachments are permitted.

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between

each Unit and any adjacent Common Area, between adjacent Units or between any Unit and a any Private Amenity. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of less than one foot, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

13.3. Easements for Utilities and Other Infrastructure

(a) Installation and Maintenance. The Founder reserves for itself, during the Development and Sale Period, and grants to the Association and all utility providers, for perpetual duration, non-exclusive easements throughout Baywood of River Oaks (but not through a structure) to the extent reasonably necessary to:

(i) install utilities and infrastructure to serve Baywood of River Oaks, security and similar systems, and drainage systems;

(ii) install walkways, pathways and trails, street lights, and signage on property the Founder or the Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and

(iv) access and read utility meters.

Notwithstanding the above, the Founder reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. The Founder also reserves the non-exclusive right and power to

grant and record such specific easements consistent with Section 13.3(a) as it deems necessary to develop the property described in Exhibits "A" and "B." The location of the specific easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this section shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

13.4. Easements to Serve Additional Property

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property.

If the above easement grants permanent access to any property which is not submitted to this

Charter, excluding any golf course within or adjacent to the Community, the Founder, or its successors or assigns, shall enter into a reasonable agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

13.5. Easements for Maintenance, Emergency, and Enforcement



The Association may come onto the exterior portions of your Unit to do maintenance or to address violations of the covenants. This section describes the extent of the Association's right in this regard.

By this Charter, the Founder grants to the Association easements over Baywood of River Oaks as necessary to enable the Association to fulfill its maintenance responsibilities under Section 6.2 and its enforcement rights under Section 8.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

13.6. Easements for Golf Courses



If a golf course is close to your Unit, you can expect that golf balls and people will come on or near your Unit. This Section acknowledges that activities relating to the golf course will affect Units.

The Community is burdened with an easement permitting golf balls unintentionally to come upon areas adjacent to or in the vicinity of a golf course, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood Association, or the exterior portions of a Unit to retrieve errant golf balls. However, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Founder; the Association or its members (in their capacities as such); the owner of a golf course, its successors, successors-in-title to the golf course, or assigns; any builder or contractor (in their capacities as such); any shareholder, officer, director, or partner of any of the foregoing, or any officer or director of any partner.

The owner of any golf course within or adjacent to any portion of Baywood of River Oaks, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair, and replacement of its golf course. This easement shall include, but is not limited to, the golf course owner's right to draw water from any lake within the Community as reasonably necessary for the operation, maintenance, repair, and replacement of its golf course.

The Community is hereby burdened with a non-exclusive easement in favor of the adjacent golf course for overspray of water from the irrigation system serving such golf course. Water used to irrigate the golf course may be water drawn from ponds or lakes located within or outside the Community, including Lake Martin,

or other sources. Such water may or may not be treated, may or may not be potable water, and may be irrigation quality water. **Under no circumstances shall Founder, the Association, or the owner of such golf course be held liable for any damage, injury, or nuisance resulting from such overspray or the exercise of this easement.**

The owner of any golf course within or adjacent to any portion of Baywood of River Oaks, its successors and assigns, shall have a perpetual, exclusive easement of access over Baywood of River Oaks for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from its golf course.

Chapter 14

Private Amenities

Various recreational and other facilities may be located within or in the vicinity of the Community that are privately owned and operated by Persons other than the Association. Those facilities are not part of the Common Area of the Community and ownership of property in the Community does not give any person the right to use them. This Chapter explains the right of the owners of those facilities to determine if and on what terms they wish to make their facilities available for use by Owners. It also establishes certain rights for the benefit of the owners of such facilities.

14.1. General

Any property and facilities located within, adjacent to, or near Baywood of River Oaks which Persons other than the Association own and operate for recreational, commercial and related purposes are "**Private Amenities.**" The Private Amenities include, without limitation, any golf courses, whether private or public, and their related and supporting facilities and improvements.

No Person gains any right to enter or to use any Private Amenity by virtue of membership in the Association or ownership or occupancy of a Unit. Access to and use of any Private Amenity is strictly subject to the rules and procedures of the owner of such Private Amenity.

Each Owner and occupant of a Unit acknowledges and agrees to refrain from, and to cause their respective guests and invitees to refrain from, entering upon a Private Amenity, including any portion of any golf course, without the prior permission of the owner or operator of the Private Amenity and further acknowledge and agree that any such unauthorized entry may be deemed a trespass.

All Persons are hereby advised that no representations or warranties have been or are

made by the Founder, the Association, or by any Person acting on behalf of any of the foregoing with regard to the continuing ownership or operation of the Private Amenities. No purported representation or warranty in such regard, written or oral, shall be effective unless specifically set forth in a written instrument which the record owner of the Private Amenity executes.

Ownership or operation of any Private Amenity may change at any time. This may be for different reasons, such as (a) the sale to or assumption of operations by an independent Person, (b) establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates of Founder. Consent of the Association, any Neighborhood Association, or any Owner shall **not** be required to effectuate any change in ownership or operation of any Private Amenity, subject to the terms of any written agreements entered into by such owners.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

14.2. View Impairment

The Founder, the Association, or the owner of any Private Amenity, does not guarantee or

Private Amenities

represent that any view over and across the Private Amenity from Units adjacent to the Private Amenity will be preserved without impairment. Owners of the Private Amenities shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Private Amenities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size, and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

14.3. Rights of Access and Parking

There is hereby established for the benefit of any Private Amenity and its members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all private roadways located within Baywood of River Oaks reasonably necessary to travel between the entrance to Baywood of River Oaks and the Private Amenity and over those portions of Baywood of River Oaks (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenity. Without limiting the generality of the foregoing, members of any Private Amenity and the guests and invitees of such Private Amenity shall have the right to park their vehicles on the roadways located within Baywood of River Oaks at reasonable times before, during, and after tournaments, other similar functions, and special events held by or at the Private Amenity to the extent that the Private Amenity has insufficient parking to accommodate such vehicles.

14.4. Limitations on Amendments

In recognition of the fact that the provisions of this Chapter are for the benefit of the Private Amenities, no amendment to this Chapter, and no amendment in derogation of any other provisions of this Charter benefiting any Private Amenity, may be made without the written approval of the Private Amenities. However, the foregoing shall not apply to the Founder's amendments.

14.5. Jurisdiction and Cooperation

It is the Founder's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of Baywood of River Oaks and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines.

Chapter 15

Disclosures and Waivers

This chapter discloses some important information about the Community for the benefit of prospective purchasers of property in the Community. Each Owner, by accepting a deed to property in the Community, also accepts and agrees to the matters set forth in this chapter.

14.1. Safety and Security

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Baywood of River Oaks. The Association may, but shall not be obligated to, maintain or support certain activities within Baywood of River Oaks designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, neither the Association nor the Founder shall in any way be considered insurers or guarantors of safety or security within Baywood of River Oaks, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to Baywood of River Oaks, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any tenants and other occupants of such Owner's Unit, that the Association, its Board and committees, and the Founder are not insurers or guarantors of security or safety and that each Person within

Baywood of River Oaks assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

14.2. Changes in Master Plan

Each Owner acknowledges that Baywood of River Oaks is a community the development of which is likely to extend over many years, and agrees that neither the Association nor any Neighborhood Association shall engage in, or use Association funds to support, any protest, challenge, or other form of objection to changes in uses or density of property within Baywood of River Oaks, without the Founder's prior written consent.

14.3. View Impairment

Neither the Founder nor the Association guarantee or represent that any view over and across any property within or outside of the Community will be preserved without impairment. The Founder, Founder Affiliates, and the Association and any Private Amenity shall have no obligation to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association (with respect to the Common Area) and Private Amenity owners (with respect to Private Amenity property) has the right to add trees and other landscaping from time to time, subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

Any golf course owner may, in its discretion, but shall not be obligated to, change the location, size, configuration, landscaping, topography, hydrology, and elevation of the tees, bunkers, fairways, greens, buildings, improvements,

Disclosures and Waivers

landscaping, and water features on such golf course. Any such additions or changes to such golf course may diminish or obstruct the view from the Units.

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Chapter 15

Rights of Lenders

In order to enhance each Owner's ability to obtain financing for the purchase of his or her Unit, this chapter sets forth various provisions for the benefit of lenders who make mortgage loans and for the benefit of those agencies which guarantee and insure mortgage loans made by institutional lenders.

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in Baywood of River Oaks. The provisions of this chapter apply to both this Charter and to the By-Laws, notwithstanding any other provisions contained therein.

15.1. Notices of Action

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of Baywood of River Oaks or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder; and

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days.

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

15.2. No Priority

No provision of this Charter or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

15.3. Notice to Association

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

15.4. Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

15.5. Construction of Chapter 15

Nothing contained in this chapter shall be construed to reduce the percentage vote that must otherwise be obtained under this Charter, the By-Laws, or Alabama law for any of the acts set out in this chapter.

PART FIVE: COMMUNITY DEVELOPMENT

The rung of a ladder was never meant to rest upon, but only to hold a man's foot long enough to enable him to put the other somewhat higher.

Thomas Henry Huxley

Chapter 16

Expansion of the Community

Due to the need to pace development to the needs of the Community and demand for Units or Common Areas, the initial property submitted to the Charter may be expanded by the Founder or the Association.

16.1. Expansion by Founder

From time to time, the Founder may submit to the terms of this Charter all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder.

The Founder's right to expand Baywood of River Oaks under this section expires when all property described in Exhibit "B" has been submitted to this Charter or 50 years after this Charter is recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever.

16.2. Expansion by the Association

The Association also may submit additional property to this Charter by recording a Supplement describing the additional property. Any Supplement which the Association records must be approved by Owners representing more than 50% of the total votes in the Association at a meeting duly called for such purpose and by the owner of the property to be submitted. In

addition, during the Development and Sale Period, the Founder's consent is required. The Association's President and Secretary, the owner of the property, and the Founder, if the Founder's consent is required, shall sign the Supplement.

16.3. Additional Covenants and Easements

Any Supplement that the Founder records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement, to reflect the different character and intended use of such property.

16.4. Effect of Filing Supplement

A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Charter shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Charter.

Chapter 17

Additional Rights Reserved to the Founder

This chapter reserves various rights to the Founder, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Founder's development and sale of property in the Community, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.

17.1. Withdrawal of Property

During the Development and Sale Period, the Founder may amend this Charter to remove any unimproved portion of Baywood of River Oaks from the coverage of this Charter, provided such withdrawal does not reduce the total number of Units then subject to the Charter by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

17.2. Marketing and Sales Activities

Notwithstanding anything in the Governance Documents to the contrary, during the Development and Sale Period the Founder and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required,

convenient, or incidental to construction or sales activities, the Founder and its employees, agents, and designees may park vehicles in designated parking areas.

17.3. Right to Develop

The Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

In addition, during the Development and Sale Period, the Founder may replat property that it owns and convert Units it owns into Common Area.

17.4. Right to Make Improvements, Replat

During the Development and Sale Period, the Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate.

In addition, during the Development and Sale Period, the Founder may replat property that it owns and convert Units it owns into Common Area.

17.5. Right to Approve Changes in Baywood of River Oaks Standards

During the Development and Sale Period, no amendment to or modification of any Rules or

Additional Rights Reserved to the Founder

Design Guidelines shall be effective without prior notice to and the written approval of the Founder.

17.6. Additional Easements, Covenants and Restrictions

During the Development and Sale Period, no one other than the Founder may record any additional easements, covenants or restrictions affecting any portion of the Community without the Founder's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

17.7. Exclusive Rights to Use Name of Development

No Person shall use the name "Baywood of River Oaks" or any derivative of such names or any logo or depiction associated with Baywood of River Oaks in any printed or promotional material without the Founder's prior written consent. However, Owners may use the name "Baywood of River Oaks" in printed or promotional matter where such term is used solely to specify that particular property is located within Baywood of River Oaks, and the Association shall be entitled to use the word "Baywood of River Oaks" in its name.

17.8. Easement to Inspect and Right to Correct



In the event of an emergency, the Founder, or someone it designates, may enter onto any Unit to inspect and correct problems with the Unit. The Founder, if entering an enclosed structure on the Unit, must obtain the Owner's prior consent unless it is an emergency.

The Founder reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within Baywood of River Oaks, including Units, and a

perpetual nonexclusive easement of access throughout Baywood of River Oaks to the extent reasonably necessary to exercise such right. Except in an emergency, no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

17.9. Right to Notice of Design or Construction Claims

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Baywood of River Oaks in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

17.10. Right to Transfer or Assign the Founder's Rights

Any or all of the Founder's special rights and obligations set forth in this Charter or the By-Laws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation nor enlarge a right beyond that which Founder has under this Charter or the By-Laws. No such transfer or assignment shall be effective unless it is in a recorded instrument the Founder signs. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless

Additional Rights Reserved to the Founder

necessary to evidence the Founder's consent to such exercise.

17.11. Termination of Rights

The rights contained in this chapter shall not terminate until the earlier of (a) termination of the Development and Sale Period; or (b) the Founder's recording of a written statement that all sales activity has ceased.

The very essence of leadership is that you have to have a vision. Theodore Hesburgh

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

There are many ways of going forward, but only one way of standing still.

Franklin D. Roosevelt

Chapter 18

Dispute Resolution and Limitation on Litigation

From time to time, disputes may arise between Owners, or between an Owner and the Association, the Founder, or others involved in the Community. This chapter commits the parties to any such dispute to work together in an attempt to resolve the dispute without litigation, in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Community.

18.1. Agreement to Encourage Resolution of Disputes Without Litigation

The Founder, the Association and its officers, directors, and committee members, all Persons subject to this Charter, and any Person not otherwise subject to this Charter who agrees to submit to this chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to any claim unless and until it has first made a good faith effort to resolve such claim through alternative dispute resolution procedures adopted by the Board (which may include, without limitation, a requirement that the parties engage in negotiation or non-binding mediation).

Specifically excluded from the obligation of submitting a claim under this section are:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iii) any suit that does not include the Founder or the Association as a party, if such suit asserts a claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth herein; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving notice of the claim, unless the party or parties against whom the claim is made agree to toll, or extend, the claim's statute of limitations to comply with this chapter.

18.2. Initiation of Litigation by Association

In addition to compliance with any alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Owners entitled to cast 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

(a) initiated during the Founder Control Period;

(b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;

Dispute Resolution and Limitation on Litigation

(c) initiated to challenge *ad valorem* taxation or condemnation proceedings;

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Problems cannot be solved at the same level of awareness that created them. Albert Einstein

NOTES

Chapter 19

Changes in the Common Area

Various influences and circumstances within and outside the Community may give rise to a need or desire to make changes in the ownership of or rights to use Common Area. This chapter explains the procedures for dealing with matters such as changing use rights in Common Area or Limited Common Area, partition of the Common Area, and condemnation.

19.1. Assignment and Reassignment of Limited Common Area.

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Owners representing at least a majority of the total votes in the Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. As long as the Founder owns any property subject to this Charter or which may become subject to this Charter in accordance with Chapter 16, any such assignment or reassignment shall also require the Founder's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

19.2. Condemnation



A governmental entity such as a town, county, or state has the power to condemn property for its own uses but generally has to pay the value of the property to do so.

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Association in lieu of and under threat of condemnation with such approval as may be required under Section 19.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Founder, during the Development and Sale Period, and Owners representing at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 19.4.

Changes in the Common Area

19.3. Partition



Partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 19.4.

19.4. Transfer or Dedication of Common Area

The Association may dedicate portions of the Common Area to Tallapoosa County, Alabama, Alexander City, or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if Common Area other than Limited Common Area, upon the written direction of Owners representing at least 75% of the total votes in the Association, and the Founder during the Development and Sale Period; or

(b) if Limited Common Area, upon written approval of Owners of at least 75% of the Units to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the

Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

No conveyance or encumbrance of Common Area may deprive any Unit of rights of access or support.

Anyone who has never made a mistake has never tried anything new. Albert Einstein

NOTES

Chapter 20

Amendment of Charter

As the Community matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan, as well as changes in the needs and desires of the Community that inevitably will occur. This chapter sets out procedures by which either the Founder or the Owners as a group may amend this Charter to address such changes.

20.1. By the Founder

In addition to specific amendment rights granted elsewhere in this Charter, until termination of the Founder Control Period, the Founder may unilaterally amend this Charter for any purpose.

Thereafter, the Founder may unilaterally amend this Charter if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Unit Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this paragraph shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

In addition, during the Development and Sale Period, the Founder may unilaterally amend this Charter for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

20.2. By Owners

Except as otherwise specifically provided above and elsewhere in this Charter, this Charter may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing at least 75% of the total votes in the Association, including 75% of the total votes held by Owners other than the Founder. In addition, during the Development and Sale Period, any such amendment shall also require the Founder's written consent.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3. Validity and Effective Date

No amendment may remove, revoke, or modify any right or privilege of the Founder or the Founder Member without the written consent of the Founder or the Founder Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Charter or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within three months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or

Termination and Amendment of Community Charter

circumstances operate to amend any provisions of this Charter.

20.4. Exhibits

Exhibits "A," "B," and "D" are incorporated by this reference, and this chapter shall govern amendment of those exhibits. Exhibit "C" is incorporated by this reference and may be amended under Chapter 7 or pursuant to Sections 20.1 and 20.2. All other exhibits are attached for informational purposes and may be amended as provided in those exhibits or in the provisions of this Charter, which refer to such exhibits.

*Don't ever take a fence down until you know
why it was put up. Robert Frost*

NOTES

THIS CHARTER is made by Baywood of River Oaks, Inc., an Alabama corporation, as Founder, and in witness thereof, it has executed this Charter this ____ day of _____, 20__.

FOUNDER: Baywood of River Oaks, Inc., an Alabama corporation

By: _____
Name: _____
Its: _____

STATE OF ALABAMA

COUNTY OF TALLAPOOSA

I, _____, a _____, in and for said County in said State, hereby certify that _____ whose name as _____ of Baywood of River Oaks, Inc., an Alabama corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this _____ day of _____, 20__.

Notary Public

My commission expires: _____

EXHIBIT "A"

Land Initially Submitted

Service Area Designation:

EXHIBIT "B"

Land Subject to Annexation

EXHIBIT "C"

Initial Rules

The purpose of Rules is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Chapter 5, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances, the same thing may be disapproved for another Unit under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to all of Baywood of River Oaks until such time as they are modified pursuant to the Charter.

1. **General.** Baywood of River Oaks shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Founder to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for the Founder or the Association) consistent with this Charter and any Supplement.

2. **Restricted Activities.** Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities are prohibited within Baywood of River Oaks:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, recreational vehicles, including boats, Sea Doos, and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages, or, in the case of permitted watercraft, in areas designated by the Board; provided, construction, service and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area, and further provided that parking is permitted on alleyways, but only in specifically designated parking spaces;

(b) Raising, breeding, or keeping animals except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs may be required to be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity that emits foul or obnoxious odors outside the Unit or creates noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Units, including, but not limited the operation of motorcycles or motorized scooters;

(d) Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit except as permitted by the Board;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(k) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(l) On-site storage of fuel, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Chapter 5;

(m) Any activities which materially disturb or destroy the vegetation, wildlife, or air quality within Baywood of River Oaks or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(n) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Chapter 5;

(o) Any modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Chapter 5 of the Charter. This shall include, without limitation, sculptures, artwork, or statues; signs, flag poles, basketball goals, and swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind;

(p) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Baywood of River Oaks, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Founder may dump and bury rocks and trees removed from a building site on such building site;

(q) Obstructing or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Founder and the Association shall have such right; provided, the exercise of such right shall not unreasonably interfere with the use of any Unit without the Owner's consent;

(r) Any garage sale, moving sale, rummage sale, or similar activity;

(s) Capturing, trapping, or killing of wildlife within Baywood of River Oaks, except in circumstances posing an imminent threat to the safety of persons using Baywood of River Oaks; provided, the Founder and the Association, and any of their respective designees, shall have the right, but not the obligation to, capture, trap, and kill wildlife within Baywood of River Oaks which pose a threat or a nuisance; and

(t) Any satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "**Permitted Antennas**") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Design Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property; provided, such Permitted Antennas shall not be installed on the front portion of any Unit or balcony. The Founder and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of Baywood of River Oaks, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at Baywood of River Oaks:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, unlawful, or of a nature as may diminish or destroy the enjoyment of Baywood of River Oaks;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units; and

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation.

EXHIBIT "D"

By-Laws of Baywood of River Oaks Owners' Association, Inc.