

STATE OF ALABAMA)  
LIMESTONE COUNTY)

RLPY 2003 79033  
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Michael L. Davis  
Judge of Probate  
Limestone County, AL

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, Christopher and Beasley Development Corporation, being the owner of West Gate Subdivision, Addition I, being situated in Limestone County, Alabama, and recorded in Plat Book G, page 174 and 175, Probate Office of Limestone County; and

WHEREAS, the owner is in the process of developing and platting West Gate Subdivision into individual, quality, single-family lots, and in addition, contemplates setting aside certain tracts of land for community open spaces.

WHEREAS, the owner contemplates selling portions of said real estate, and before selling portions of said real estate, and before selling and conveying the same, desires to restrict the use of all of said parcels as described in said map so that all deeds and other instruments conveying or in any way alienating any of said parcels, shall be made subject to the following restrictions, covenants, and conditions, and accepted by each grantee:

#### ARTICLE I

#### RESTRICTIONS

1.01 **LAND USE AND BUILDING TYPE:** No building shall be located upon the above described subdivision except single detached family dwellings, with the usual small buildings customarily incidental to residential occupancy. These buildings shall be for the use of one family only and shall be for residential purposes only.

1.02 **SUBDIVISION OF PARCELS:** None of the parcels platted in the above referred to subdivision shall be subdivided, and not more than one dwelling, for the use of one family only, shall be erected on any one of the parcels as platted. Adjoining property owners may readjust sidelines between parcels, provided the readjustment does not decrease the area of any parcel more than 10%. Any readjustment of sidelines decreasing the area of any parcel more than 10% must be approved in writing by the Architectural Control Committee as defined in Paragraph 1.06 below. All parcel reductions must meet minimum lot size required of city.

1.03 **BUILDING LOCATION:** Each dwelling must be located no closer to any street than the 40 foot building set-back line and must be located so that it does not detract from the adjoining property, with the further requirement that no part of the structure shall be any closer than 15 feet to either side line of the property. The height and location of any residence, garage, or accessory building shall be designed so as to assist in the preservation of views of others. No greenhouse, storage building, detached garage, or other satellite structure may be located closer to the front street than the rear of the main dwelling, nor within the utility easement at the rear of the parcel, nor closer than 15 feet to either sideline. Any variances to these requirements must be approved by the city and the Architectural Control Committee.

An owner of two adjoining parcels desiring to build one dwelling on said two parcels may elect to treat both parcels as one for the purposes of these restrictions.

1.04 **MINIMUM STRUCTURE AND SIZE:**

A. One and one-half story houses must have a minimum finished living area of 1200 square feet on the first floor with the total being a minimum of 1800 square feet. No basement area is to be considered in this minimum requirement.

- B. Two story houses must have a minimum finished living area of 1100 square feet on each floor. No basement area is to be considered in this minimum requirement.
- C. A single level house including split-level houses must have a minimum finished living area of 1700 square feet. No basement area is to be considered in this requirement.

In all of the above cases these areas shall be exclusive of basements, attached garages, carports, attics, terraces, porches, breezeways, and other similar areas.

1.05 **DWELLING QUALITY:** Only residencies of good conforming architectural design and suitable materials shall be erected in the above referred to subdivision. Construction must substantially comply with the latest code of the National Bureau of Fire Underwriter's, National Plumbing Code, National Electrical Code, and all codes and building requirements of the City of Athens, Alabama. Construction that does not conform in character and comparative quality with the rest of the subdivision will not be allowed. The use of concrete blocks or of asbestos shingles as outside finish will not be permitted, nor will exposed concrete block foundations be permitted.

Roof lines/slopes shall be in keeping with current trends, and in general very shallow slopes shall not be allowed on the primary structure. The type of structure will substantially influence the Architectural Control Committee in determining minimum roof slopes on the primary structure, with the guideline that roof slopes of the primary structure equal to or greater than 6/12.

1.06 **ARCHITECTURAL CONTROL COMMITTEE:** In order that compliance may be had with the foregoing and to maintain an attractive harmonious appearance of the subdivision, the prospective builder will submit to the approving authority a home blueprint consisting of outside elevations, floor plans, and outline specifications. In conjunction with the submittal of the above home blueprint to the Architectural Control Committee, the prospective builder shall provide a site plan depicting the structure in relation to the lot dimensions. The site plan can be a sketch, in nature, but must be dimensionally correct so as to define the structure and lot relationships including the driveway(s). No construction shall begin until the approving authority approves, in writing, the home blueprint and site plan for the dwelling. The same will be required for any alterations, addition or other type construction not covered by the original approval. Until such time as all parcels have been sold, the Architectural Control Committee shall be composed of at least two (but not more than five) persons designated and re-designated from time to time by Developer until control of the Architectural Committee is specifically delegated by the Developer to the Association, and by the Association after delegation of such control. Delegation of control of the Association, and by the Architectural Committee from the Developer to the Association shall be evidenced by an instrument signed by Developer and filed for record in the Probate records of Limestone County, Alabama.

Except as hereinafter provided, the affirmative vote of a majority of the membership of the Architectural Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any findings, determinations, ruling or order, or to issue any permit, authorization or approval pursuant to directives or authorizations contained herein. With regard to review of plans and specifications as set forth in this Article I, however, and with regard to all other specific matters (other than the promulgation of rules and regulations) as may be specified by resolution of the entire Architectural Committee, each individual member of the Architectural Committee shall be authorized to exercise the full authority granted herein to the Architectural Committee. Any approval by one such member of any plans and specifications submitted under this Article I, or the granting of any approval, permit or authorization by one such member in accordance with the terms hereof, shall be final and binding. Any disapproval, or approval based upon modification or specified conditions by one such member shall also be final and binding.

The Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this declaration, and no member of this committee shall have any liability, responsibility, or obligation, whatsoever, for any decision or lack thereof, in the carrying out of duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this declaration shall rest with

the homeowner. Each homeowner agrees to save, defend, and hold harmless the Architectural Control Committee and each of its members on account of any activities of this committee relating to such owner's property or buildings to be constructed on his or her property.

1.07 **AMENDMENT OF RESTRICTIONS:** These restrictions may be modified and amended by the affirmative vote of the owners of a least seventy-five percent (75%) of the lots within West Gate and its additions; provided, however that so long as Developer still owns any lot or lots in West Gate or its additions these restrictions may not be modified or amended without Developer's written consent on any such modification or amendment. Article V cannot be amended except by consent of Developers.

1.08 **BUSINESSES:** No business or trade of any kind shall be carried on or permitted upon any portion of the above, described subdivision.

1.09 **TEMPORARY DWELLINGS:** No mobile home, garage, or other outbuilding erected or located upon said above described subdivision shall be used as a residence at any time, temporary or permanent, nor shall any residential dwelling or building of temporary character be permitted. No mobile home shall be allowed on the premises.

1.10 **PREFAB HOMES:** No prefab homes unless approved by the Architectural Committee. The purpose of this restriction is not to discourage appropriate prefab homes but to deter prefab homes of lower quality that do not conform to the character and comparative quality with the rest of the subdivision.

1.11 **GARAGES:** All carports and detached garages must have separate approval from the Architectural Control Committee. Approval will be based on design, view and appeal of carport and detached garage. Carports cannot face any existing street.

1.12 **WATER AND SEWAGE SYSTEMS:** No water system or water supply source shall be used on any lot of this subdivision unless approved by the Limestone County Health Department and no sewage or waste disposal system or practices shall be allowed in the subdivision unless approved by the Limestone County Health Department.

1.13 **GENERAL COVENANTS AND RESTRICTIONS:** The following is not permitted without the prior written approval of the Architectural Control Committee:

A. No previously approved structure shall be used for any purpose other than that for which it was originally designed.

B. No parcel shall be split, divided or subdivided for sale or resale, gift, transfer or otherwise, except as noted in paragraph 1.02.

1.14 **VEHICLE STORAGE:** No boat, boat trailer, trailer, motor home, recreational vehicles, truck larger than 3/4 ton, bus, disabled car, or any similar items shall be stored in the open on any parcel for a period of time in excess of 48 hours. These items are permitted on rear portion of parcel, if screened from street view.

1.15 **CONSTRUCTION PERIOD:** The construction of any residence shall be completed within one year from the beginning of construction thereof, the intent hereof being that no incomplete or partially completed residence shall be allowed to stand for more than one year in its incomplete or partially completed state.

1.16 **UNDERGROUND WIRING:** No wiring for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any parcel.

1.17 **TRANSMISSION EQUIPMENT, ANTENNAS AND SATELLITE DISHES:** No visible ham radios or radio transmission equipment shall be operated or permitted to be operated on the Properties. No

television or radio antennas or television satellite dishes shall be permitted within West Gate and its additions unless approved by the Architectural Committee. Small satellite dishes on rear of building may be permitted but solely at the discrepancy of the Architectural Committee and must have written approval.

1.18 **ANIMALS:** No livestock, animals of any kind, poultry or insects shall be kept or maintained on any unit without the express written consent of the Architectural Committee except domesticated dogs, cats and birds and no more than three (3) total animals may be kept on a unit for purposes other than breeding or commercial. Notwithstanding the foregoing, no animal, which constitutes a nuisance, in the opinion of the Association, may be kept on any lot.

1.19 **STORAGE BUILDINGS:** Storage buildings and the like must be located at rear of parcel and conform and blend with main dwelling in type and appearance. The Architectural Control Committee must approve all storage buildings.

1.20 **FENCES:** No chain link or wire fences shall be allowed. All fences shall be constructed so as to not constitute a nuisance or offensive effect on other persons residing in the subdivision. Fences shall be no more than six feet high and no closer to the front of the house than one-half the distance to the front of the house. Fences and hedges should take into consideration any easement lines as required by city code. All fencing shall be kept in a state of repair.

1.21 **MAILBOXES:** All mailboxes shall be located as directed by the U.S. Postal Service. Each lot owner shall be responsible for the maintenance and replacement of mailbox so as to keep it in a state of repair at all times. All mailboxes must be approved by the Architectural Control Committee and will be alike in nature. Mailboxes will be made of cast aluminum or material approved by Committee.

1.22 **EASEMENTS:** Public utility easements and drainage easements are as shown on the recorded plat of the subdivision. Owners are cautioned that city vehicles must be capable of traversing the easement to maintain utilities and drainage. Trees, shrubs, etc., should be planted in compliance with City Ordinance 903 and in such manner that vehicles will not damage them. See paragraph 1.20 above concerning fences.

1.23 **DRIVEWAYS:** All driveways must be constructed of concrete. The minimum driveway width in the main body shall be 12 feet, and shall flare to no less than 17 feet at the curb. Any other type driveway must have written approval from the Architectural Control Committee.

1.24 **CLOTHESLINES:** No clothing or other household fabrics shall be hung in the open on any Unit unless the same is not visible from any adjoining property or public view.

1.25 **SWIMMING POOLS:** Swimming pools must be located to the rear of the building in an enclosed area and location approved by the Architectural Control Committee. Swimming pools must be of a permanent in-ground type.

1.26 **TANKS:** No exposed above ground tanks or receptacles will be permitted on any Unit for the storage of fuel, water or any other substance.

1.27 **BASKETBALL GOALS:** No basketball goals, or similar sporting equipment shall be placed in the front yard of any unit.

1.28 **FILL DIRT:** Fill dirt has been added to certain lots. Owners and builders are advised of this and obligated to determine the sufficiency of this and are obligated to determine the sufficiency of the compaction and condition of the dirt of each lot for purposes of determining requirements for safe and sufficient construction of foundation and structures.

1.29 **BUILDING REPLACEMENT:** These restrictions shall apply to any building originally constructed on the parcels within the subdivision, any building or structure moved onto the parcels, or to any replacement of any building or structure, or any addition thereto. If any building should be torn down

or destroyed for any reason whatsoever, the building to be erected in its place shall likewise comply with all the provisions of these restrictions.

1.30 **COURT ACTION:** The invalidation of any one or more of the covenants herein contained by decree or judgment of any Court shall in nowise affect the provisions remaining, each provision hereof being separate and severable, said remaining provisions to remain in full force and effect during the term hereof.

1.31 **VIOLATIONS:** If any party subject to the restrictions and covenants herein contained, his heirs or assigns, shall violate, or attempt to violate, any of the restrictions and covenants above enumerated, any other person, or persons, owning a lot in the said above subdivision, or any interest therein, may prosecute any proceeding at law, or in equity, against the person, or persons so violating, or attempting to violate, any restriction or covenant herein contained, and shall be entitled to injunctive relief to enjoin such violation, or attempted violation, and may further recover such damages as may have been sustained thereby.

1.32 **COVENANTS:** The covenants and restrictions herein above enumerated shall be covenants running with the land.

1.33 **TENANTS:** It shall be the responsibility of each Owner to insure that any tenant of any lot, which is owned by him receives a copy of these restrictions and that every lease utilized by such Owner contain a provision therein stating that every tenancy is subject to all of the terms and provisions of the Declaration. The Owner shall remain liable for the performance and observation of all terms and conditions in this Declaration and for all costs of enforcing the same, including a reasonable attorney's fee and court costs.

1.34 **LAWN DECORATIONS:** No objects other than appropriate yard furniture and landscaping ornaments may be on the lawns of any lot unless approved by the Architectural Committee. Any objects deemed offensive by Architectural Committee will be removed.

## ARTICLE II

### DEVELOPER MODIFICATION

2.01 With respect to any unsold lot or parcel, Developer may include in any contract or deed hereinafter made or entered into such modifications and/or additions to these Restrictions as Developer in his discretion desires; provided, however, that these Restrictions may not be so modified to except such lot or parcel from the assessment provisions of Article III or to lessen or extend the voting rights as provided in these Restrictions or in the Charter and By-laws of the Association.

## ARTICLE III

### ASSOCIATION

3.01 The Association shall mean and refer to the West Gate Homeowners Association, Inc., an Alabama non-profit corporation, its successors and assigns, said corporation to be hereafter created.

Every owner (but not mortgagee) of a parcel shall be deemed to have a membership in the Association. No owner, whether one or more persons, shall have more than one membership per parcel owned. The owners of each parcel shall be entitled to one vote in the affairs of the Association.

Membership in the Association shall pass with the title to each parcel as an appurtenance thereto.

3.02 **CLASS OF MEMBERSHIP:** There shall be one class of membership in the in the Association.

3.03 **VOTING RIGHTS:** Members shall be entitled to cast votes at Association meetings on matters pertaining to the Association, including the election of members of the Board of Directors, amending the Declaration, the Articles of Incorporation and the By-laws of the Association, and all other matters which may be brought before the Association membership except as otherwise provided in this Declaration.

3.04 **ASSOCIATION RESPONSIBILITY:** The Association shall maintain and keep in good repair the area of common responsibility or common areas, municipal easements, and such other areas as in these Restrictions provided, of the subdivision, maintenance to be funded as hereinafter provided. The maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping or other flora, structures, and any improvements, which may be situated upon such areas. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the common area, which shall be maintained out of regular assessments for common expenses.

3.05 **USE OF FUNDS:** The Association shall apply funds received by it pursuant to these Restrictions, and from any other source, reasonably for the benefit of the common areas and areas designated by these Restrictions. The Association may purchase such insurance, including liability insurance, as it shall determine, and may pay from funds received all costs of operation, fees, permits, taxes, accounting and legal charges, and other costs and expenses of operation of the Association. If reasonably available, the Association shall obtain a public liability policy covering the common areas, the Association and its members, for all damage or injury resulting from the operation, maintenance or use of the common areas, or caused by the negligence of the Association or any of its members or agents, and any legal liability that results from lawsuits relating to employment contracts with the Association in which the Association is a party.

3.06 **OBLIGATIONS OF ASSOCIATION WITH RESPECT TO FUNDS:** The Association shall not be obligated to spend in any calendar year all the sums collected in such year, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the annual charge in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors of the Association in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes. The Association shall provide to all members of the Association an annual accounting of funds expended and balances remaining within 120 days after the end of any calendar year, such accounting to be at the Association's expense.

3.07 **AUTHORITY OF ASSOCIATION TO CONTRACT:** The Association shall be entitled to contract with any corporation, firm or other entity for the performance of the various undertakings of the Association.

3.08 **AUTHORITY OF ASSOCIATION TO BORROW MONEY:** The Association shall be entitled to borrow money for the purposes of the Association, up to an outstanding principal balance of \$10,000.00. Any borrowing exceeding an outstanding principal balance of \$10,000.00 shall require the approval of 51% of the votes of the membership.

3.09 **AUTHORITY OF ASSOCIATION TO MAKE CAPITAL EXPENDITURES:** The Association shall be entitled to make capital expenditures for the improvement of the common areas.

3.10 **ASSESSMENT:** For the purpose of providing funds to carry out the purposes of the Association, and to pay all reasonable expenses incurred by the Association, the Association shall in each year, commencing with the year 2003, assess against each lot of West Gate, including all additions which have been recorded in the Probate Judge Office, an annual charge (assessment) which shall be uniform and equal with respect to all lots and which assessment shall be equal to a specified dollar amount (equal to the

amount necessary to carry out the purposes of the Association) divided by the total number of platted lots in the subdivision and all additions thereto. Each such lot shall be charged with and be subject to a lien for the amount of such assessments which shall be deemed the "annual charge" with respect to such lot. Through the year 2005 the Developer will pay the assessments for each lot owned by it. Lots owned by Developer shall not be subject to the annual charge after December 31, 2005.

**3.11 EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION:**

If any member shall fail to pay the annual charge on a timely basis, in addition to the right to sue the member for a personal judgment, the Association (or the Developer, if applicable) shall have the right to enforce the lien hereinafter imposed to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures, as in the case of mortgages under applicable law, and the amount due by such member shall include the annual charge, as well as the cost of such proceedings including a reasonable attorney's fee, and the aforesaid interest. In addition, the Association (or the Developer, if applicable) shall have the right to sell the property at public or private sale after giving notice to the member (by registered mail or by publication in a newspaper of general circulation in Limestone County, Alabama, once a week for three successive weeks) prior to such sale.

**3.12 CONTINUING LIEN:** All members' or owners' property shall be subject to a continuing lien for assessments levied in accordance with the provisions of this Declaration. The annual charge together with interest thereon and the cost of collection thereof including reasonable attorney fees as herein provided, shall be a charge on and shall be a continuing lien upon the member's or owner's property against which each such assessment or charge is made.

**3.13 PERSONAL OBLIGATION OF MEMBERS:** Each member or owner, by acceptance of a deed or other conveyance to property, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the annual charges. Each such assessment, together with interest and cost of collection, including reasonable attorney's fees, shall be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

**3.14 SUBORDINATION OF LIEN TO MORTGAGES:** The lien of any assessment or charge authorized herein with respect to member's or owner's property is hereby made subordinate to the lien of any bona fide mortgage on such property if, but only if, all assessments and charges levied against such property falling due on or prior to the date such mortgage is recorded has been paid. The sale or transfer of any property pursuant to a mortgage foreclosure proceeding or a proceeding in lieu of foreclosure or the sale or transfer of such property pursuant to a sale under power contained in a mortgage on such property shall extinguish the lien for assessments falling due prior to the date of such sale, transfer or foreclosure, provided that the Association shall have a lien on the proceeds of such sale senior to the equity of redemption of the mortgagor. The foregoing subordination shall not relieve a member or owner whose property has been mortgaged of his personal obligation to pay all assessments and charges falling due during the time when he is the owner of such property.

ARTICLE IV

COMMON AREAS

**4.01 COMMON AREAS:** The Association shall be responsible for the exclusive management, maintenance and control of all of the common area within West Gate and its additions, and all improvements thereon, and shall keep them in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

**4.02 PERSONAL PROPERTY AND REAL PROPERTY FOR COMMON USE:** The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Association will accept any personal property conveyed to it by Developer, or their successors, "as is", and

any real property within the total property of West Gate and its additions conveyed to it by Developer, or their successor, by quitclaim deed.

4.03 **RULES AND REGULATIONS:** The Association may make and enforce reasonable rules and regulations governing the use of the common area. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the common area. The Association shall, in addition, have the power of relief in any Court for violations or to abate nuisances. Imposition of sanctions shall be as provided in rules and regulations established by the Association.

4.04 **RIGHTS IN COMMON AREA:** "Common area" shall be that so designated on the plat of West Gate and its additions and subsequently conveyed by Developer to Association. Each owner of a lot in West Gate and its additions shall have the right of use of the common area, during his period of ownership, but subject to the rules and regulations established by the Association.

ARTICLE V

ADJACENT LAND

This declaration of covenants, conditions and restrictions shall not apply to adjacent lands owned by, or subsequently acquired by, Developer. Developer may acquire and convey additional real estate, improved or unimproved, adjacent to West Gate to the Association as additional common area, and the Association shall accept same and same thereafter shall be maintained by the Association at its expense for the benefit of all its members. Developer may also develop additional lots on adjacent land and subject such lots to this same declaration of covenants, conditions and restrictions and granting the owners membership in the Association. This article cannot be amended as stated in Article 1.07.

CHRISTOPHER & BEASLEY DEVELOPMENT  
CO., INC.

By Billy A. Christopher  
Its President

STATE OF ALABAMA  
COUNTY OF LIMESTONE

I, Barbara J. Parnell, a Notary Public in and for said State and County, hereby certify that Billy A. Christopher, whose name as President of Christopher and Beasley Development Corporation, is signed to the foregoing restrictive covenants, and who is known to me, acknowledged before me on this day that, being informed of the contents of the restrictive covenants, he, as such officer and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this the 28<sup>th</sup> day of October, 2003.

Barbara J. Parnell  
Notary Public  
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Mar 9, 2004  
BONDED THIRD NOTARY PUBLIC UNDERWRITERS



Recording Fee 25.00, TOTAL 25.00