

COPY
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PROTECTIVE COVENANTS
BEAU CHENE ESTATES

WHEREAS, STONE INVESTMENT CO., INC., a Mississippi corporation, is the owner of certain land and property lying and being situated in the Second Judicial District of Harrison County, Mississippi, and has caused the same to be subdivided into a subdivision designated as BEAU CHENE ESTATES SUBDIVISION (herein sometimes referred to as "the subdivision"), a plat of which is being filed herewith and is now on file and of record in the office of the Chancery Clerk, Second Judicial District of Harrison County at Biloxi, Mississippi, in Plat Book 11, on page 34-35 thereof; and

WHEREAS, said owner desires to impose certain restrictive and protective covenants upon said subdivision for the protection and benefit of the developer and owners of lots therein.

NOW THEREFORE, in consideration of the advantages to accrue through such restrictive and protective covenants and for other good and valuable considerations, said owner hereby covenants and agrees that all future owners of lots in the said subdivision the following restrictive and protective covenants shall apply to the subdivision and each and every lot therein unless otherwise provided.

1. Each and every lot in the subdivision shall be known, described and. used as residential lots and no buildings shall be erected, altered, placed or permitted to remain on any lot therein other than one (1) single-family dwelling, constructed in whole on the premises, not to exceed two and one-half stories in height, excluding basement or foundation required to elevate the first floor for flood protection purposes, together with reasonable accessory or out-buildings (none of those may be constructed of metal); provided, however that any such accessory or out-building shall be attractive in appearance and shall be painted immediately following its erection unless constructed of brick, glass or other material not requiring painting. All accessory buildings must be approved by the Architectural Committee hereinafter created.

2. The term "Single-Family Dwelling" as herein used shall mean one detached housing unit designed for occupancy by one family and shall exclude any and all commercial or charitable/non-profit enterprises, including, but not limited to, home occupations, "cottage" manufacturing, commercial endeavors, repair shops (other than home hobby shops), apartments or apartment houses, multifamily residences, private or non-private nursing homes, churches and schools. Nevertheless, this paragraph shall not prohibit the use of a portion of a residential facility as a professional office or for cultural, artistic or safety instructions and/or training provided (a) such use or activity shall be on a part-time or seasonal basis only, (b) no signs advertising such use or activity shall be posted or otherwise displayed anywhere within the subdivision, (c) such use or activity does not generate unusual or excessive noise or disturb the peace and tranquility of the neighborhood, and (d) such use or activity does not result in traffic or parking congestion in the subdivision.

3. No main building or any extension or part thereof excluding exterior air conditioning units, and pumphouse for preexisting well and water tank.) These structures will have to be approved by the Architectural Committee prior to construction and shall be erected in compliance with the ordinances of the City of Biloxi, Mississippi. The eaves of buildings located within the setback lines provided in this paragraph

may extend across setback lines, if permitted by City ordinances, but shall not under any conditions extend across any lot lines. Fences and gates may be extended from the front corner of the house to the side property line provided they shall be of an attractive design in keeping with the residence structure and as an extension of the exterior facade thereof and approved by the Architectural Committee. Accessory buildings, when detached from the main buildings, shall be set behind the rear line of the main building on said lot. Boathouses on the water may be built up to the property line where such line is contiguous with such water frontage. On corner lots, any accessory building must be erected on the side of the lot opposite the street line.

4. An enclosed garage is not mandatory; however, the development use of each lot in the subdivision shall include provision for off-street parking for the greater of either (a) two (2) automobiles or (b) all vehicles regularly owned and/or utilized by the occupants of the residence. In the event a garage (either attached or detached) is constructed on any lot in the subdivision, it shall accommodate not less than two (2) automobiles. An open carport shall be permitted provided the same shall be located in the rear of the main structure, not readily visible from the street and shall be attached to the main structure. Garages and carports shall be of a design and shall be constructed of materials which are in architectural harmony with the main structure; and, if designed and constructed separately from the main structure., the plans and specifications for a garage or carport shall be submitted for review and approval by the Architectural Committee. Garages, carports and/or off-street parking areas must be connected to the street by a hard-surface driveway constructed during the construction of the dwelling. (In lieu of a hard-surface driveway, the driveway may be constructed of any material which shall have been previously approved by the Architectural Committee.)

5. No single-family dwelling shall be constructed containing less than 3,000 square feet of heated and cooled living area for single-level homes on lots 1 thru 9 and 2,500 square feet of heated and cooled area on 10 through 27 other lots. One and one-half story, split level, two-story and two and one-half story residences shall contain a total of not less than 2,500 square feet of heated living area. For the purpose of determining heated living area, porches (other than glass-enclosed), garages carports, boat houses, and storage areas shall not be included.

6. The association, hereinafter-- authorized, shall appoint whatever committees desired', however, the association, owners of property subject to these covenants shall have an architectural committee. The Architectural Committee ("the committee") shall be composed of three members who shall serve four year staggered terms. The committee shall be vested with the power and authority herein set forth and stated. The initial members of the committee shall be selected and appointed by Stone Investment Company, Inc., the majority owner of the property from and upon which the subdivision is created and the declarant of these covenants. Thereafter, upon the expiration of term of office or death or resignation of any member of the committee, the remaining member or members shall appoint a replacement or successor member or members until the annual meeting of the property owners association at which time the vacancy will be filled. In the event that all three members of the committee shall die or resign without having named successor or replacement members, the owner/declarant, Stone Investment Co. , Inc. , shall appoint three successor members, unless at that time all of the lots in the subdivision shall have been sold by the owner/declarant, in which case a committee consisting of three members shall be elected by a majority vote of the then owners of the lots, the owners being entitled to one vote for each lot owned. Replacement of successor committee members shall serve for the same time and with the same authority as if originally appointed. Members of the committee shall not be entitled to any compensation for services performed by them pursuant to these covenants.

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The committee shall establish its own rules or procedure, which may be altered or amended from time to time by a majority vote of its members. Nevertheless, the vote of a majority of the committee shall be conclusive with respect to plans, specifications and plot plans submitted to the committee as required by these covenants;

and, within thirty (30) days following the proper submission of such plans, specifications and plot plan, the committee shall meet and render its decision in writing, a copy of which shall be forthwith delivered to the lot owner (s) or other persons requesting the committee's decision. If, within thirty (30) days after proper submission of plans, specifications and plot plan, the committee shall fail to render its decision as herein provided, the said plans, specifications and plot plan shall be deemed to have been approved.

Before any residence, garage, pier, boat house, out-building, fence, wall or other structure, or exterior addition to, change in, or alteration of any such structure shall be commenced, erected, placed, maintained or permitted to remain upon any lot or property subject to these covenants, complete, final building plans and specifications sufficient to secure a building permit from the City of Biloxi (including, without limitation, a plot plan showing the location of such improvements) shall have been submitted to and approved in writing by the Architectural Committee ("the committee") hereinafter created. Two complete sets of such plans and specifications shall be furnished to the committee, one copy of which shall be retained by the committee for its records, and such plans and specifications shall include the following information:

- (a) Nature, kind and shape of structure;
- (b) Floor plan;
- (c) Type of materials of which structure is to be constructed;
- (d) Finishes and colors of all exterior surfaces, including roof covering;
- (e) Exact location on lot(s);
- (f) Front, side and rear elevations;
- (g) Location of drives and parking areas; and
- (h) Name of builder and/or contractor.

7. In building or causing to be built a residential structure on any lot in the subdivision, the owner and/or builder shall avoid to every extent reasonably possible the substantial duplication of the exterior elevation or design of any other existing residential structure within five hundred feet (5001) of the lot.

8. No swimming pool shall be erected, placed, altered or remain on any lot in the subdivision until the plans and specifications for the same along with a plot plan showing its location shall have been approved by City of Biloxi, If required by the City, and the Architectural Committee. Pools of the type intended or able to be installed above ground are strictly forbidden and shall not be placed on any lot in the subdivision. Swimming pools must be constructed, equipped and screened/fenced in accordance with the requirements, standards and recommendations of the governmental authority having jurisdiction of the subdivision, and it shall be the responsibility of the lot owner or developer to so comply.

9. The purchaser and/or subsequent owner of each lot in the subdivision shall, at his own expense, construct any **improvements** on the property in compliance with the standards and/or requirements of the City of Biloxi, Mississippi.

10. Improvements made below the contour line five feet (51) above mean high tide level or within any low elevation are regulated as "wetlands,," shall be subject to approval prior to construction or

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installation by such governmental regulatory body(ies) or agency(ies) as shall have jurisdiction and/or control thereof; and, such improvements shall be limited to walkways across lowlands, piers, small roofed structures for recreational use only, grills, boat slips and boat storage facilities for a small boat; and no such improvement -shall be permitted which is out of proportion or which tends to unreasonably obstruct the view of the water from other waterfront lots. Any structure to be installed or constructed below the said 5-foot contour shall meet

the approval of the Architectural Committee as provided for other structures within the subdivision and subject to the wetland covenants of record between Stone Investment Company, Inc., and the Corps of Engineers recorded in Book 332, Pages 26 et seq dated March 31, 1998.

11. No structure of a temporary nature (such as a tent) shall be permitted to be placed or to remain on any lot in the subdivision at any time, nor shall any motor home, house trailer or any other movable living quarters be parked or otherwise located on any lot at any time unless the same be stored in a closed garage or approved out-building. Likewise, no boat shall be permitted on any lot in the subdivision unless stored in an approved, covered and enclosed storage facility.

12. No animals will be permitted to remain on any lot in the subdivision except pet dogs and cats not to exceed three (3) (combination of cats and dogs) per dwelling unit; and no fowl shall be allowed to be kept except birds which are caged as inside pets.

Pets shall be kept on the owner's property and shall not be permitted to molest or intimidate persons properly within the subdivision. Dogs or cats shall not be bred or raised as a business within the subdivision.

13. Clotheslines, if any, must be completely screened and shall not be permitted to be visible from the street, adjoining lots, or from the Biloxi Bay.

14. Before any fence shall be erected or installed on any lot within the subdivision, the design of the same and materials specifications shall be submitted to and approved by the Architectural Committee as provided for other structures in the subdivision. No fence shall be permitted to be erected or remain which shall extend into the front yard of any lot closer than the front of the residence structure on the lot. All fences must be constructed of either brick, wood or other materials approved by Architectural Committee, and no chain-link or wire fences shall be permitted. Approval of the Architectural Committee shall be secured prior to beginning construction of the fence. Care shall be taken in the design and placement of fences, walls, and/or hedges on waterfront lots so as not to impede or obstruct the view of the water from adjoining or nearby waterfront or nonwaterfront lots.

15. No sign of any kind shall be placed or displayed on any lot in the subdivision which shall be visible from the street or from any other lot except one (1) sign of not more than six (6) square feet in surface area without artificial illumination advertising the property for sale or rent, and one or more signs of reasonable size and tasteful design used by the builder to advertise the property during the initial construction and sales periods. Said restriction is not applicable to the developer and developer is exempt from this provision.

16. Lot owners shall maintain the appearance of his property in neat, clean and litter-free condition, including, without limitation, maintenance of grass, trees, and shrubbery, and, in the same manner, shall landscape and maintain any easements and utility boxes located on his lot(s).

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17. In order to insure that the maximum benefit attributable to existence of natural vegetation will accrue to the owners of lots in the subdivision, only trees with a trunk size smaller than ten inches (10") in diameter may be removed except as shall be necessary for the proper location of residential structures on lots for related purposes; however, any dead or diseased tree may be removed without regard to size or kind, and the owner/developer may remove trees as necessary for the construction of street or driveway and other subdivision site improvements. Waiver of the restrictions of this provision may be granted by the Architectural Committee. Water oaks, long-leaf pines, bays and willows are considered to be undesirable trees for-- residential areas and are exempt from the provisions hereof, and such trees may be removed without regard to their size, except as

may be otherwise regulated under the provisions of any applicable ordinance, rule or regulation of any governmental body having jurisdiction of the subdivision.

18. The land and property within the subdivision which is designated as "landscape buffer" areas on/by the official plat of the subdivision shall be used, kept and maintained exclusively for landscaping and/or for natural vegetation or growth; and, except as hereinafter provided, no 'building or structure of any kind whatsoever, shall be erected or maintained thereon. Subject to the prior approval of the Architectural Committee, a fence or wall may be placed, erected along and within the said landscape buffer areas by the owner/declarant (or its successor) or by a properly constituted subdivision homeowners' association, provided such fence or wall so erected shall be uniform in design, materials and finish throughout the subdivision and any extensions or future phases thereof. No portion or segment of the landscape buffer areas shall be used or permitted to be used for purposes of either pedestrian or vehicular ingress or egress to the subdivision or to any lot or other property therein.

19. The use of privies, septic tanks and cesspools for the disposal of sewage is prohibited. No activities shall be permitted on or within the subdivision which discharge or threaten to discharge pollutants into adjacent lands and/or waters or noxious odors into the air.

20. No individual potable water supply system shall be permitted on any lot. This provision shall not, however, prohibit water wells for irrigation or for heating/air conditioning purposes.

21. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the official recorded subdivision plat.

22. No guns, firearms, or weapons of any kind (including, but not limited to, BB guns, pellet guns, slingshots, and bows and arrows) shall be discharged anywhere within the subdivision, except for self protection or protection of property.

23. No lot in the subdivision shall be used for or contain more than one, single dwelling. No lot may be split to provide two or more building sites or otherwise subdivided except by the owner, Stone Investment Co., Inc. However, in the event any person shall purchase and own two or more adjacent lots and shall desire to construct a single dwelling on these lots as a single building site, then the restrictions of these covenants shall apply to said lots as if that dwelling had been constructed on a single building lot. And a lot situated between two lots may be split between adjacent lot owners with the same effect. The owner, Stone Investment Co., Inc., specifically reserves the right authority and is granted permission to divide or sell any part of any lot or lots in the subdivision. This right may not be questioned by anyone including lot owners.

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24. No trash, rubbish, garbage or-other waste shall be dumped or placed on any lot within the subdivision; nor shall any wrecked or junked motor vehicle of any kind be stored or be permitted to remain on any lot, street, driveway, or easement within the subdivision. The repair or renovation of vehicles (either mechanical or body work) shall not be permitted to be performed within the subdivision except in an approved garage. No antenna, satellite dish or disk (sometimes known and referred to as an earth station), or other device for television or radio reception shall be permitted to be placed, installed, erected or remain on any lot or easement within the subdivision, unless prior approval of the Architectural Committee is given.

25. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done anywhere within the subdivision which may be or become an annoyance or nuisance to the neighborhood.

Although flood lights, bells, music, pets, and various sports, social, and **avocational** activities are not specifically prohibited; however, if used or carried on in the subdivision, the same shall be with restraint and during reasonable hours so as to avoid being or becoming a nuisance or a threat to the enjoyment of neighboring properties.

26. All restrictive covenants appearing herein, as well as those which may appear in instruments of conveyance of lots in the subdivision, shall be construed together; but if, by either judgment or decree, any one or more of the same shall be held or declared to be unconstitutional, invalid or unenforceable for any reason whatsoever, none of the other such provisions shall be affected or impaired thereby, but shall remain in full force and effect.

27. If any owner of any lots within the subdivision, or his/her/their heirs, assigns, or successors shall breach or violate or shall attempt to breach or violate any covenant or any mandatory or prohibitory provision hereon or of any amendment hereto, the owner and/or developer of any other lots(s), acting individually or in concert with other owners and/or developers, may institute a proceeding at law or inequity against such person or persons either to enjoin him/her/them or 'to recover damages occasioned by such breach or violation(s) or both. In the event a court of competent jurisdiction shall determine that an owner has breached or violated or shall have attempted to breach or violate any of the covenants or provisions hereof, the owner causing such breach or violation or permitting such breach or violation shall pay all attorney's fees, court costs, and other expenses allowed and assigned by the Court which shall become a lien upon the lot(s) upon which the breach/violation shall have occurred and the improvements thereon. And, all terms and provisions hereof may be enforced by a decree, judgment or order or specific performance.

28. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them for an initial period of twenty-five (25) years from the date of recordation, at the expiration of which time these covenants shall automatically extend for successive periods of ten (10) years unless, before such extension, the majority of the owners of lots within the subdivision shall change or abolish the covenants by written instrument, recorded in the office of the Chancery Clerk of Harrison County, Mississippi, Second Judicial District. And these covenants may be amended at any time upon the written consent of at least eighty percent (80%) of the owners of lots in the subdivision exclusive of mortgage holders /beneficiaries and trustees in any security instrument. Nevertheless, changes, which serve or affect only waterfront lots shall require the written consent of at least eighty percent (80%) of the owners of the waterfront lots.

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29. The property owners of lots above described may form a property **owners assoication** preferably a non-profit corporation providing for an elected Board of Directors with staggered terms.

30. Nothing herein contained shall preclude the creation by the owners of lots within the subdivision of a homeowners' association having as its purpose the health, safety and common good/welfare of the residents of the subdivision; provided, however, that (a) Stone Investment Co., Inc., or its successor (represented by a designated officer or employee) shall be an ex officio member of any such association so long as they own a lot in the **subdiision**, (b) the owner or resident of each lot containing a dwelling within the subdivision shall be afforded the opportunity to be or become a member of the association, (c) each dwelling unit within the subdivision shall be entitled to no more than one membership in the association and no more than one vote on any matter coming before the association for consideration, and (d) on all matters coming before the association for consideration and/or action, the will of a majority of the members shall constitute the action of the association. If and when the association shall be created, it shall have control for purposes of maintenance and

upkeep of any land or property contained within the boundaries of the subdivision (as shown by the official map or plat thereof) which does not constitute a lot or property appurtenant thereto and which is not part of the streets, easements, and rights-of-way dedicated to the City of Biloxi. Developer cannot be assessed any charges of any kind by the property owners' association., Any lots owned by Stone Investment Co., Inc., or developer in the subdivision cannot be assessed dues or other assessments of any kind by the property owner's association or anyone else nor will Stone Investment Co., Inc., be charged any membership fees, dues or assessments (regular or special) so long as Stone Investment Co., Inc., owns property in the subdivision. The Homeowners Association or Architectural Committee will have no control, jurisdiction or authority at any time or nature over Stone Investment Co., Inc., or developer of lots Stone Investment Co., Inc., or developer owns in the subdivision so long as Stone Investment Co., Inc.. or developer owns a lot or lots therein. The property owner's association will be vested with the authority to assess dues and special assessments and promulgate rules and regulations to collect the dues and special assessments from any lot owner other than Stone Investment Co., Inc.

31. This will be and is a gated subdivision or community. The property owner's association will have control of the gated community and be responsible for this part of the subdivision including installation, control, promulgating rules and regulations and coordinating all requirements of the city, county and state. However, any rules, regulations, orders and decisions of the property owner's association cannot place any burden on or impose any duty or obligation on Stone Investment Co. , Inc., or developer. The lot or lots owned by Stone Investment Co., Inc., or developer are not subject to any of the jurisdiction or authority of the property owner's association or Architectural Committee so long as it is owned by Stone Investment Co., Inc., or developer; however, upon the lot or lots being sold by Stone Investment Co., Inc., or developer then the lot or lots will be subject to these committee's vested authority.

32. **AMENDMENTS, VOTING *RIGHTS* AND TERMINATION:** These Building Restrictions and Protective covenants may be amended from time to time by a written document signed, acknowledged, and recorded, which reflects the affirmative vote in favor of the amendment by eighty percent (80%) of the lot owners, if amended and/or changed during the thirty-five (35) year period of this Declaration, then thereafter said covenants may be amended or terminated with the consent of at least seventy-five percent (75%) of the lot owners, and in each case, such amendments shall be evidenced by a document in writing, bearing each of their signatures. All amendments, if any, shall be recorded in the office of the Chancery Clerk in the Second Judicial District of Harrison County, Mississippi.

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33. Description of the property encompassing this subdivision is described as Lots 1, 2, 3, 4, 7 through 27, both inclusive. Lots 5 and 6 are not subject to these restrictions. An owner of any lot or lots or property not included within these restrictions cannot be an officer, director, committee member of any committee, advisor, or have any vote in having any control over the property that is subject to these restrictions, nor have a voice or any position whatsoever associated with the property owners association or the committees or advisors selected by property owners association members, Board of Directors or committees.

34. None of the covenants apply to the **developer**, Stone Investment Co., Inc.

WITNESS the signature(s) and seals of the Owner/Declarant and of the Mortgagee/Beneficiary as of this the 13 day of August 1998.

STONE INVESTMENT CO., INC. OWNER/DEVELOPER

BY:

DANA R. PARSONS, PRESIDENT

Approved:

John C. Griffith
Owner of Lot 4

Jean R. Griffith
Owner of Lot 4

Jeffrey H. O'Keefe, owner
Lot 3

Georgia L. O'Keefe, Owner
Lot 3

STATE OF MISSISSIPPI

COUNTY OF STONE

BEFORE ME, the undersigned authority in and for the aforesaid State and County, personally appeared DANA R. PARSONS, President of Stone Investment Company, Inc., a Mississippi Corporation, who acknowledged he signed, sealed and delivered the above foregoing PROTECTIVE COVENANTS on the day and year therein written as the act and deed of said corporation, having first been duly authorized to so do. *

GIVEN under my hand and official seal of office on this the 13 day of August 1998.

My Commission Expires:

My COMMISSION EXPIRE' S MAY 1. 2002

STATE OF MISSISSIPPI

NOTARY PUBLIC

COUNTY OF HARRISON - SECOND JUDICIAL DISTRICT

BEFORE ME, the undersigned authority in and f or the aforesaid State and County, personally appeared JOHN C. GRIFFITH and **JEAN R. GRIFFITH**, who acknowledged they signed, sealed and delivered the above foregoing PROTECTIVE COVENANTS on the day and year therein written as their own free and voluntary act and deed.

GIVEN under my hand and official seal of office on this, the 13th day of August 1998.
STATE OF MISSISSIPPI

COUNTY OF HARRISON - SECOND JUDICIAL DISTRICT

BEFORE ME, the undersigned authority in and f or the aforesaid State and County, personally appeared JEFFREY H. O'KEEFE and GEORGIA L. O'KEEFE who acknowledged they signed, sealed and delivered the above foregoing PROTECTIVE COVENANTS on the day and year therein written as their own free and voluntary act and deed

GIVEN under my hand and official seal of office on this the 25th day of August, 1998.

My Commission Expires:

Notary Public State of Mississippi at Large

My Commission Expires Feb. 7, 2002

STATEMENT OF FEES

Recording Fee	\$6.00
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