

STATE OF ALABAMA)
)
 JACKSON COUNTY)

DECLARATION OF RESTRICTIONS

OF

CABANISS COVE SUBDIVISION

A. GENERAL PROVISIONS

WHEREAS, the undersigned, Cabaniss Cove L.L.C., an Alabama Limited Liability Company, (the "Declarant") with principal offices at 449 Chilcotin Road, Langston, Alabama 35755, is the owner of a tract of land situated in Jackson County, Alabama, and known as Cabaniss Cove, as shown on the map and plant of the same of record in Plat Cabinet B, Slide 748, in the Probate Office of Jackson County, Alabama, and;

WHEREAS, the Declarant desires that certain restrictive covenants be declared and recorded, which covenants shall be binding on the present owner and all subsequent owners of any lot or lots in said subdivision;

NOW, THEREFORE, in consideration of the premises and the mutual benefit to be derived by all parties concerned, the said Cabaniss Cove L.L.C. does hereby covenant and agree with all subsequent owners of lots in said subdivision that the following restrictive covenants shall be covenants running with the land and shall be binding on all subsequent owners thereof and shall inure to the benefit of all owners of any of the said lots in the subdivision:

1. These restrictions shall take effect immediately and shall be binding on any person, corporation, partnership, trust or other entity owning an interest in a lot within said development or subdivision within Cabaniss Cove Subdivision (called "Lot Owner"), as the same is recorded in Plat Cabinet B, Slide 748 in the Probate Office for Jackson County, Alabama. These covenants shall remain in effect until January 1, 2027, when these restrictions shall be automatically extended for successive periods of ten years each unless extended by vote of the majority of the Cabaniss Cove Property Owners Association, Inc. These restrictions shall have application only to the numbered lots and shall not apply to common areas as designated on the subdivision plat.

2. In the event of violation of these restrictions, any Lot Owner or the Cabaniss Cove Property Owners Association, Inc. may bring an action at law or in equity to enforce these restrictions, whether to seek an injunction, damages or other relief.

3. Invalidation of any one of these restriction by judgment or decree shall not in any way affect any of the other provisions, which shall remain in full force and effect.

4. All numbered lots in the subdivision shall be known and designated as residential lots. Except as otherwise provided herein, no structure shall be erected, altered or placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage and a similar storage building, both of which, if constructed, must be constructed and finished in conformity with the basic style and finish of the residence.

5. All Lot Owners shall be members of the Cabaniss Cove Property Owners Association, Inc., (called "Association") and shall be bound by the terms of the Bylaws of the Association.

B. USE RESTRICTIONS

1. No house, garage, outbuilding or other structure shall be located nearer than 30 feet to boundary of the right of way of a street, nearer than 10 feet to any interior lot line, or nearer than 10 feet to any back property line or TVA boundary, provided also that no building or other structure shall be placed in any area not permitted by TVA, which is generally below the contour line established by TVA for this purpose. For the purpose of this covenant, eaves, steps and open porches shall not be considered as part of the building, provided, however, that this shall not be construed to permit any part of the building to encroach upon another lot. If any owner purchases two or more adjacent lots, then the setbacks as enumerated herein above shall be inapplicable as to the lot lines which are common to the lots purchased, provided that the lots remain under common ownership.

2. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plat. No structures, shrubs, plants or other material that may damage or interfere with the installation and maintenance of utilities, or that may change the direction of flow or drainage channels in easements, or that may obstruct or retard the flow of water through drainage channels in the easements shall be placed or permitted to remain within utility easements. The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot except for those improvements for which a public authority or utility company is responsible. Declarant reserves the right to vacate and relocate any drainage facilities shown on the recorded subdivision plat and to grant such utility easements as are necessary to provide utility services to dwellings constructed on the lot.

3. Any alteration to the shoreline of lots and all piers and docks thereof must conform to applicable TVA Standards and TVA Shoreline Management Policy.

4. No more than one dwelling house may be erected on any lot as shown on the recorded map, and no lot shown on said map may subdivided or reduced in size by any device, voluntary alienation, partition, judicial sale or other process of any kind.

5. No residence shall be erected, placed, altered or permitted to remain on any lot in this subdivision having a floor area of less than 1,500 square feet of floor area. In computing the said minimum floor area, measurements shall be made from exterior walls, but will include no basement area, porches, carports, or garages. In computing the minimum floor area of a house consisting of one story and a basement, only the main floor will be considered, and not the basement. In a one and

one-half or two story house, the first floor must be not less than 1,000 square feet and the remaining area in said house must have a minimum of 700 square feet on the second floor, unless a smaller second floor is specifically approved in writing by the Architectural Review Committee established under by bylaws of Cabaniss Cove Property Owners Association. In split-level or tri-level houses only the two top levels can be considered in computing the minimum square foot area and the Architectural Review Committee may exercise reasonable discretion as to how this calculation is done.

6. No building, whether a residence, garage, storage building or other structure shall be erected, placed, altered or permitted to remain on any building plot in the subdivision until the building plans and specifications and the plot plans showing the location of such building or alteration have been approved in writing as to conformity and harmony with the subjective criteria for an upscale waterfront subdivision as the same is determined solely by the Architectural Review Committee.

A. In the event the Architectural Review Committee fails to approve or disapprove such design and location within 30 days after said plans and specifications have been properly and officially submitted to him, such approval shall be deemed to be granted.

B. In the event the Architectural Review Committee rejects plans submitted for approval under this paragraph, a vote of 75 percent of those Lot Owners of lots any part of which is within a 300-foot radius of any part of the lot in question approving such design and location may overrule the decision of the Architectural Review Committee and the design and location shall then be approved. The method of counting votes in such instance shall be that established by the Bylaws of the Association as adopted by the Board of Directors of the Association.

C. A complete set of plans and specifications of the house, garage and/or storage building to be built shall be left with the Architectural Review Committee during the time of construction. The Architectural Review Committee will be informed of any changes in those plans and specifications and will be provided with copies of amended drawings and specifications. The powers and duties of said Architectural Review Committee shall cease after December 31, 2026. Thereafter, the approval required in this covenant will not be necessary unless prior to that date the Association should appoint a representative or representatives to thereafter exercise the same powers and duties previously executed by the Architectural Review Committee.

7. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may become any annoyance or nuisance to the neighborhood. No business, trade or other commercial activity shall be carried on upon any lot in any manner, whether direct or indirect.

8. Only conventional site-built structures shall be constructed on any lot. No mobile home, manufactured home, prefabricated structure, modular home, trailer, or motor home shall be constructed on or moved to any lot. This paragraph shall not be interpreted to prohibit pre-fabricated

roof or floor trusses or similar components. No basement, tent, shack, garage, barn or other outbuilding erected on the tract shall at any time be used as a residence temporarily or permanently nor shall any structure of a temporary character be used as a residence. If such any violation under this paragraph remains for more than thirty (30) days after notice by the Architectural Review Committee to a Lot Owner, any Lot Owner who fails to correct such a violation shall suffer a penalty of \$50.00 per day, which shall constitute an assessment under the Bylaws of the Association. Such penalty assessment shall be in addition to damages or other relief which way be awarded by a court of law.

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

10. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five square feet advertising the property for sale or signs of not more than five square feet used by the builder to advertise the property during the construction and sales period.

11. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that a reasonable number of dogs, cats, and other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.

12. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste must be kept except in sanitary containers. All incinerators or other equipment for the storage of such material shall be kept in a clean and sanitary condition, and shall be screened.

13. Lots are intended to include a residence and one additional garage and no more than one storage building. Lots shall not be used for open storage of boats, recreational vehicles, all-terrain vehicles, motorcycles, trailers, containers, and similar property, or for the open storage of more than two passenger vehicles. No inoperative vehicle will be kept on any lot.

14. All above-ground exterior foundation walls shall be veneered with brick or stone. If a house is of Spanish design with stucco exterior or is of such other design that the foundation shall not be brick or stone, then the Architectural Review Committee, in his sole judgment, may approve other materials for said exterior foundation wall.

15. The Architectural Review Committee shall have broad powers to determine what constitutes acceptable construction and finish styles for the subdivision. Among factors to be considered by the Architectural Review Committee are lot location and setting, terrain, drainage, street access, roof line and pitch or slope, exterior finish, roofing materials, the use of porches and decks, window and door styles and locations, construction styles, period styles, and the appearance and finishes of any completed homes on nearby lots.

16. All driveways, parking areas and similar areas shall be paved with concrete, asphalt or paving stones.

17. All fences shall be decorative in nature and built only with the approval of the Architectural Review Committee.

18. Television satellite dishes or similar devices shall be in back yards only. "Back yards" shall be defined as that portion of the yard that lies furthest from the subdivision roads, except that on all lakefront lots, the back yard shall be the that part of the lot closest to Gunter'sville Reservoir.

19. Trees are an essential element of the subdivision and shall be preserved whenever possible. No Lot Owner shall permit or allow the cutting, removal or trimming of a tree without the express permission of the Architectural Review Committee. Plot plans approved in accordance with these restrictions shall be deemed to approve removal of trees within the footprint of buildings, driveways, sidewalks, piers and patios shown on those plans, with a margin of 15 feet around such buildings, driveways, sidewalks, piers and patios. Violation of this paragraph will result in a penalty of \$500.00 to the Lot Owner plus the cost incurred by the Architectural Review Committee for replacing the tree which was cut, removed or trimmed in violation of this paragraph, the total of which shall constitute an assessment under the provisions of the Bylaws of the Association.

20. Damage or Destruction. In the event of damage or destruction to any structure within the subdivision, the respective Owner thereof agrees as follows:

A. In the event of total destruction, the Owner shall promptly clear the lot of debris and leave the same in a neat and orderly condition until such time as the Owner might elect to rebuild and reconstruct the structure. Any such rebuilding and reconstruction shall be accomplished in conformity with the plans and specifications of the original so destroyed, subject to any changes or modifications as approved by the Architectural Control Committee.

B. In the case of partial damage or destruction, the Owner shall, as promptly as an insurance adjustment may be made, cause the damage or destruction to be repaired and the structure restored to its condition prior to such damage.

21. Within 180 days of the date a residence is initially occupied, landscaping and yard finish satisfactory to the Architectural Review Committee must be completed. While the Architectural Review Committee may exercise discretion in judging the qualitative aspects of such work, the fundamental intent of this section is that landscaping of sufficient quality to bring the lot into conformity with the overall style of the subdivision must be completed. If such work is not completed to the Architectural Review Committee's satisfaction within the 180 day period, then Cabaniss Cove L.L.C., or the Association, if either so elects, may undertake to complete such work and the cost shall constitute an assessment under the terms of the Bylaws of the Association.

C. PROPERTY OWNERS ASSOCIATION

1. Property Owners Association. Declarant shall cause to be formed a nonprofit corporation named Cabaniss Cove Property Owners Association, Inc. (hereinafter "Association") which, among other responsibilities and powers, shall be charged with the responsibility for the administration of

the Commons Areas of the subdivision and the common affairs of the Owners of Lots of the Subdivision.

2. Membership. The Owners of Lots shall be deemed by virtue of such ownership to have membership in the Association. Membership shall be appurtenant to and may not be separated from the ownership of property within the Subdivision.

3. Ownership and Use. Declarant shall transfer or convey to the Association the Commons Areas as shown on the subdivision plat along with all rights in those commons areas, subject to the following:

A. The commons areas are to be used solely by the Association members for access to Guntersville Lake and parking in connection with the use of the commons areas and shall not be used for overnight parking, loitering, picnicking, volleyball, camping, or any loud or offensive activities. Specific privileges pertaining to the Commons Areas and the use of boat slips shall be as set out in Bylaws of Cabaniss Cove Property Owners Association, Inc.

B. No additions, modifications or changes shall be made in the Commons Areas, including, but not limited to, lighting or the installation of boat lifts without the written approval of the Architectural Review Committee.

C. The commons areas shall not be used for the cleaning of fish, duck or other wild game.

Until all Subdivision Lots are sold, Declarant reserves to itself the right to exclusive use of unassigned boat slips in the commons areas, together with all rights of access over the access lot.

4. Association Voting Rights. Lot Owners shall have those voting rights in the Association as set out in Bylaws of the Association.

5. Assessments. Lot owners shall pay those assessments and other charges set out in the Bylaws of the Association and shall be subject to the penalties and remedies for default as set out in those Bylaws.

6. Maintenance. The Association shall maintain and keep in good repair the commons areas and shall be responsible for maintaining appropriate insurance coverage in force and in effect insuring all improvements on the common property and insuring against liability of the Association, its members, and Declarant. Specific responsibilities and powers of Lot Owners regarding maintenance, upkeep, appearance and aesthetics of the commons areas are as set out in the Bylaws of the Association.

2007 12908

IN WITNESS WHEREOF, the said Cabaniss Cove L.L.C. acting through its duly authorized Manager, has hereunto set its hand this the 8th day of May, 2007.

CABANISS COVE L.L.C.

BY: John R. Cooper
John R. Cooper, Manager

STATE OF ALABAMA

JACKSON COUNTY

I, the undersigned authority, a Notary Public in and for the County and State aforesaid, hereby certify that John R. Cooper, Manager for Cabaniss Cove L.L.C., whose name as Manager is signed to the foregoing instrument, acknowledged before me on this day that being informed of the contents herein, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 8th day of May, 2007.

William W. Jolley
Notary Public
My commission expires 3-22-10

STATE OF AL. JACKSON CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
2007 MAY 10 AM 10:20
U.C. FILE NUMBER OR
REC. BOOK & PAGE SHOWN
44-2-110-2-10
WIDE OF FRONT

Fi	<u>3.00</u>
Rec.	<u>21.00</u>
Index	<u>4.00</u>
Mtg. Tax	
Deed Tax	
Misc.	
TOTAL	<u>28.00</u>