

01179495

FILED FOR RECORD
At 11:00 O'Clock A M

DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
BORDEAUX SUBDIVISION

NOV 14 2001
SUE HODGES
Clerk and Recorder
Benton County, ARK.

THIS DECLARATION made this 14 day of NOVEMBER 2001, by HALES BROTHERS DEVELOPMENT, INC., an Arkansas corporation (herein "Developer").

WITNESETH:

WHEREAS, Developer, as owner of certain real property located in Rogers, Arkansas, desires to create thereon a development known as BORDEAUX SUBDIVISION (sometimes herein "Development") as more particularly described on the recorded Plat of said subdivision; and

WHEREAS, Developer desires to provide for the preservation and enhancement of value when and as the property is improved and desires to subject the development to certain covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefit of the Development and each and every owner of any and all parts thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the Development, to create an entity to which should be delegated and assigned the power and authority of holding title to and maintaining and administering the Common Properties (as hereinafter defined) and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement as hereinafter created; and

WHEREAS, Developer has caused or will cause to be incorporated under the law, of the State of Arkansas, BORDEAUX SUBDIVISION PROPERTY OWNERS' ASSOCIATION, INC., (herein "BSPOA"), an Arkansas nonprofit corporation, for the purpose of exercising the above functions and those which are more fully set out hereafter;

NOW, THEREFORE, the Developer subjects the Development property to the terms of this Declaration and declares that the same is and shall be held, transferred, sold, conveyed, occupied and used, subject to the covenants and restrictions (sometimes herein "Covenants") hereinafter set forth. These Covenants shall touch and concern and run with the property and each lot thereof.

ARTICLE I
ARCHITECTURAL CONTROL

1.01 Architectural and Design Review. In order to establish and preserve a harmonious design for the Development, to promote and protect the property values, to insure that all dwellings and accessory buildings constructed or erected shall have good quality materials and

12/10/01

workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the Development, the Developer or the Architectural Control Committee (herein "BSACC") of the BSPOA shall approve the details of construction plans including dwelling placements. The Developer shall have sole architectural and design reviewing authority for the Development until the BSACC has been established. BSACC shall be established and the Developer shall transfer reviewing authority to it when 75% of the lots in the Development have been sold.

1.02 Approval Requirements. No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure on the Lot and a finished floor elevation (FFE) relative to the street curb have been approved by the Developer or BSACC. If the FFE is not at least one (1) foot higher than the street curb elevation, the building plans shall include a drainage plan. Such plans shall be submitted for approval at least 15 days prior to the planned commencement of construction of same, and the written approval of the Developer or BSACC shall be required before construction. A satisfactory FFE relationship, or a satisfactory drainage plan will be required for BSACC approval. Should any plan submitted hereunder fail to be approved or disapproved within the time period herein provided, or in any event, if no suit to enjoin the construction proposed is commenced prior to the completion thereof, approval will not be required, and the related Covenants shall be deemed to have been fully complied with.

1.03 Approval Guidelines and Limitations. Approval of any proposed plans submitted shall be withheld unless such plans and specifications comply with the applicable Covenants. Approval of plans and specifications by the Developer or BSACC is for the mutual benefit of all property owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each property owner shall be individually responsible for the technical aspect of the plans and specifications.

ARTICLE II COVENANTS, USES AND RESTRICTIONS

2.01 Residential Use. All lots within the Development shall be governed by the provisions of the City of Rogers codes and regulations governing single-family residences on the date the subdivision plan was approved.

2.02 Building Limitations. The building codes of the City of Rogers, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in the Development. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflict between such ordinances and the provisions of these Covenants shall be resolved in favor of the more restrictive provisions. No dwelling structure shall be constructed on any lot within the Development of a size less than 2400 square

each dwelling shall have a garage, or garages attached and/or detached, for not less than two (2) cars and shall have a concrete driveway at least 16 feet wide. All building exteriors must be at least 75% brick, stone, stucco or other material specifically approved by the Developer or BSACC. All roofs must have a pitch of at least 10/12 and be architectural roofing shingles or other roofing material specifically approved by the Developer or BSACC. No standard 3-tab roofing material will be allowed.

2.03 Home Occupations. Home occupations as defined by the City of Rogers shall be prohibited.

2.04 Setbacks. No building shall be erected on any lot in the Development nearer than (1) 30 feet to the front lot line; (2) 20 feet to the rear lot line; (3) 30 feet to the exterior side lot line; (4) 10 feet to the interior side lot line. For the purposes at this covenants, eaves, steps and open porches shall not be considered as part of the building, providing, however, this shall not be construed to permit any portion of the building on a lot to encroach upon another lot. Should any building setback lines shown upon BORDEAUX SUBDIVISION plat vary from the setback requirements required herein, the building setback line shown upon said plat shall control and take precedence over those stated herein. Variances to the setback requirements established herein as may from time to time be permitted by the City of Rogers shall take precedence and be controlling.

2.05 Fences. The approval requirements outlined in subsection 1.02 for buildings shall also apply to fences. Fencing of front yards is prohibited. Fencing on corner lots may extend to, but not beyond, the exterior side setback lines established in Section 2.04. No fences shall exceed 6 feet in height. All fences shall be installed with the finished side facing out except common sections of fence installed by the owners or adjoining lots when the fence is not visible by other lot owners. All fencing materials shall be approved by the Developer or BSACC. Chain link and other forms of wire fencing are specifically prohibited.

2.06 Vehicle Parking. All vehicles, except recreational vehicles and equipment, owned by lot owners, shall be parked only in the lot owner's garage or driveway. Recreational vehicles and equipment, including but not limited to boats, motor homes, travel trailers, campers and the like shall not be parked or stored within 30 feet, or the front setback distance, whichever is greater, of the front lot line for a period or time exceeding 3 days. Provided, however, recreational vehicles and equipment may be parked in backyards for a period exceeding 3 days, so long as they are screened by proper fencing, or a hedge composed of shrubs at least 6 feet in height, so as to reasonably screen the sight of said vehicle or equipment from neighbors.

2.07 Signs. No sign, either permanent or temporary, of any kind, shall be placed or erected on any property, without the consent of the Developer or BSACC, unless signage upon property advertises the manse for sale or rent, and does not exceed 6 square feet in area. Provided, however, that the Developer and approved builders may erect signs to advertise the Development and model homes.

2.08 Temporary Structures. No trailer, tent, shack, garage, barn, or other outbuilding or structure erected on a building site within the Development shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. This restriction does not prohibit the storing of recreational vehicles or equipment on the lots when done in accordance with subsection 2.06. This restriction does not prohibit the Developer or approved builders from placing temporary construction trailers and/or storage facilities on lots as deemed necessary.

2.09 Accessory Structures. Accessory buildings, in-ground swimming pools, cabana structures and gazebos may be built within the building area on any lot subject to the approval of the Developer or BSACC. The approval requirements outlined in subsection 1.02 for buildings; shall apply to these structures. Accessory buildings shall be restricted to one per lot, the size shall be specifically approved by the Developer or BSACC and the design shall be compatible with the main dwelling. In-ground swimming pools, cabana structures and gazebos shall be restricted to one each per lot and designs that are compatible with the main dwelling. The interior area of outbuildings and cabana structures shall not be included in the determination of the minimum dwelling sizes. Permanent and semipermanent above-ground swimming pools shall be prohibited.

2.10 Antennas. No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any dwelling or other structure within the Development without the approval of the Developer or BSACC; nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any Development lot which may unreasonably interfere with the reception of television or radio signals upon any other Development properties. EXCEPTION: Digital satellite system receivers not more than 18 inches in diameter shall be allowed provided they are not visible from the street.

2.11 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept and maintained provided that they not be kept, bred or maintained for any commercial purposes. Household pets shall be maintained in a clean and sanitary situation and shall not be noxious or a nuisance to the surrounding owner. Each household shall be limited to not more than 3 dogs and/or cats. Dogs must be considered tame. No reptiles shall be kept as pets.

2.12 Easements. Perpetual easements have been reserved, as shown on the approved plat, for the construction and maintenance of utilities and drainage, and no permanent structure of any kind shall be erected or maintained upon or over said easements.

2.13 Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood. Grass, trees, and various vegetation shall be kept neatly cut and maintained. Lawns shall not be allowed to exceed six (6) inches from the ground surface. Fences or other outside structures or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Upon owner's failure to comply with this subsection, the Developer or BSACC may perform, or have performed, the necessary action to

remedy the problem and shall be entitled to recover the expense associated with such remedial action from the offending owner.

2.14 Building Materials. No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence construction of the improvements requiring such materials. Building material, shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, any remaining building materials and refuse shall be removed from the subdivision.

2.15 Inoperative Vehicles. No vehicle, bus, tractor, or other conveyance or rig, other than a lawn grass apparatus, shall be left inoperative on any lot for a period of more than 3 days.

2.16 Sight Distance at Intersections. No fence, wall, hedge or shrub which obstructs sight lines at intersections within the subdivision shall be permitted.

2.17 Sound Devices. No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed upon lots in the subdivision. The playing of loud noise from porches or decks shall be considered offensive, obnoxious activity constituting a nuisance.

2.15 Laundry. The hanging of laundry from any area within or outside a residence which places the laundry within public view is prohibited.

2.19 Landscaping. The front and side yards will be sodded within 90 days after completion of construction, weather conditions permitting.

2.20 Mailboxes. To enhance the appearance of the Development as much as possible with United States Postal Service regulations that require most of the mailboxes in the Development to be located on only one side of the street, a decorative mailbox specified by the BSACC will be supplied and installed by the Builder. All mailboxes will be the same.

ARTICLE III COMMON PROPERTIES

3.01 Common Properties Defined. "Common Properties" shall mean and refer to those tracts of land and any improvement thereon which are deeded to BSPOA and designated in said deed as "Common Properties" and any personal property acquired by the BSPOA if said property is designated as "Common Property". All Common Properties are intended for and are to be devoted to the common benefit of the owners of BORDEAUX SUBDIVISION properties. The Common Properties shall include but not be limited to the entries to the Development

ARTICLE IV
ASSESSMENTS

01179500

4.01 Amount of Annual Assessments. On or before the first day of December of each year, BSPOA Board will adopt a budget for the upcoming year. The budget will establish the total amount of annual assessments on all lots in the Development. The amount of annual assessment for the individual lots will be the same for the Developer, Developer approved builder and homeowners. The minimum annual assessment, shall be \$50.00 of which \$50.00 will be paid directly to the Overland POA by the homeowner for the maintenance of the entry and common grounds.

4.02 Changes in Annual Assessments. The amount of the annual assessments on all lots may be increased or decreased by an affirmative vote of at least 75% of the lot owners in attendance or represented by proxy at any annual or special meeting of the BSPOA duly called for such purpose.

4.03 Commencement of Assessment. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the developer to be the date of commencement, but not earlier than January 1, 2002.

4.04 Pro Rata Assessments. The amount of the first annual assessment shall be based pro rata upon the balance of the calendar year and shall become due and payable by the Developer approved builders and homeowners on the closing of the lot. The assessments for any year, after the first year, shall become due and payable the first day of January of said year.

4.05 Statements. On the first business day after adoption of the budget for the upcoming year (or as soon as practicable thereafter) BSPOA shall mail a statement to each owner informing him or her of their annual assessment and the due date for payment thereof.

4.06 Late Fees. The BSPOA shall be authorized to charge a late fee of \$15.00 to any lot owner who fails to pay any assessment on or before the due date thereof. In the event of failure to pay the same promptly when the same become due, such dues shall constitute a lien upon the property owned by such owner in the Addition and the same may be enforced in equity as in the case of any lien foreclosure authorized in the State of Arkansas. All delinquent assessments shall bear interest at the rate of ten percent (10%) per annum from the date the same become due until they are paid, and the association shall be entitled to a reasonable fee for its attorneys when their services become necessary to collect any delinquent assessments or dues, all of which shall be a part of the lien for dues. The liens herein created or retained for unpaid assessments or dues to the Bordeaux Subdivision Property Owners Association are hereby made expressly inferior and subordinate to valid and bona fide mortgages and deeds of trust or retained vendor's liens securing obligations of owners of any of the lots in the addition up to the time of sale at foreclosure of any such mortgage, deed of trust or vendor's lien and for a period of six (6)

months thereafter or until the residence upon such property is occupied, whichever date shall first occur, after which time monthly membership dues shall thereafter accrue as a lien upon such lot in the identical form and manner as prior to the foreclosure sale of the property involved. This subordination shall be construed to apply not only to the original, but to all successive, mortgages, deeds of trust, and vendor's liens given by property owners to secure obligations, together with all extensions and renewals thereof.

ARTICLE V
GENERAL PROVISIONS

5.01 Duration of Covenants. These Covenants shall run with and bind the land and shall inure to the benefit of and be enforceable by BSPOA, the Developer or owners, their respective legal representatives, and successors and assigns, and shall be effective for a period of twenty (20) years following the effective date hereof, and may be continued thereafter as provided by Arkansas law.

5.02 Amendments. These Covenants may be amended upon the affirmative vote of 75% of the lot owners in attendance or represented by party at any annual or special meeting of BSPOA duly called for such purpose, provided that no amendments shall be allowed which would be in violation of any federal, state or county regulation.

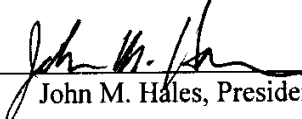
5.03 Severability. Invalidation of any restriction set forth herein or any part thereof, by any order, judgment, or decree or any court, or otherwise, shall not invalidate or affect any of the other restrictions, or any part thereof, as set forth herein, but they shall remain in full force and effect.

5.04 Violations. In the event of any violation or attempt to violate any of the Covenants herein, It shall be lawful for any person, persons, or entity owning any lots in BORDEAUX SUBDIVISION including the Developer and BSPOA, to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate such Covenants, and either prevent him or them from so doing and/or to recover damages for such violations. Provided further, however, that the Developer or BSPOA shall first advise any violator of said violations prior to legal action being taken. The Developer or BSPOA shall receive from residents any complaints as to violations of the Covenants, and shall reasonably notify any violator prior to legal actions being taken.

Signed sealed and delivered this 14 day of NOVEMBER, 2001.

HALES BROTHERS DEVELOPMENT, INC.

By: _____


John M. Hales, President

By: James F. Hales
James F. Hales, Secretary

State of Arkansas)
)
County of Benton)

ACKNOWLEDGMENT

On this 14th day of November, 2001, came before the undersigned, a Notary Public within and for the State and County aforesaid, duly commissioned and acting, John M. Hales, President and James F. Hales, Secretary of Hales Brothers Development, Inc., to me well known, and executed the above and foregoing Declaration of Covenants and Restrictions for BORDEAUX SUBDIVISION on behalf of the corporation.

WITNESS my hand and seal this 14th day of November, 2001.

Tina Beasley
NOTARY PUBLIC



JAMES F. HALES
15946 DEAR LANE
ROGERS, AR 72758