



SWAN LAKE ESTATES HOMEOWNERS ASSOCIATION, INC.

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February 21, 2025

MEMORANDUM FOR RECORD

SUBJECT: Unenforceability of Elements of Amended and Restated Covenants of Phase I, Unit I, dated March 26, 2008

The board of directors does not recognize those elements of the Amended and Restated Covenants of Phase I, Unit I, dated March 26, 2008, limiting assessments enacted through the association's procedural requirements. Those elements contradict the original covenants, are without authority, unenforceable and not binding on Swan Lake Estates HOA as a whole.

Jeffrey L. Wyatt

President, Board of Directors

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# SCANNED

STATE OF MISSISSIPPI  
COUNTY OF HARRISON  
FIRST JUDICIAL DISTRICT



1st Judicial District  
Instrument 2008 2585 D -J1  
Filed/Recorded 3 26 2008 2 40 P  
Total Fees 117.00  
48 Pages Recorded

**AMENDED AND RE-STATED**  
**PROTECTIVE COVENANTS**  
**FOR SWAN LAKE ESTATES SUBDIVISION,**  
**PHASE I, UNIT I**



KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, pursuant to Clause 28 of the original Protective Covenants of Swan Lake Estates Subdivision, Phase I, Unit I, as the same are recorded in Deed Book 1320 at Pages 671 - 674 of the Land Deed Records of the First Judicial District of Harrison County, Mississippi, and being more than 51% of the current owners of lots in Phase I, Unit I, do hereby amend and re-state the Protective Covenants for Swan Lake Estates Subdivision, Phase I, Unit I, so that the Protective Covenants for Swan Lake Estates Subdivision, Phase I, Unit I are now amended and re-stated to read as follows, to-wit:

1. The Restrictions and Covenants contained herein shall apply to Swan Lake Estates Subdivision, Phase I, Unit I
2. All lots in the aforesaid subdivision shall be known and described as residential lots, and no building shall be used for any purpose other than a residence. No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached residential dwelling not to exceed 3 stories in height and must include a carport or garage adequate for housing at least two automobiles and other out buildings incidental to residents in use of said lot.
3. The size of any dwelling, meaning the enclosed or heated area of the main structure exclusive of open porches, garages, carports or storage areas shall not be less than 1600 square feet on non-water front lots and 1800 square feet on all lots that abut the lake or Little Biloxi River. The ground or first floor area of a multi-story house shall contain not less than 1000 square feet.
4. All residences, garages, carports, outbuildings, fences and other structures incidental to the residential use of said lot shall conform in design, materials,

styles and quality of workmanship, including the type of exterior wall surfaces and roofs, to those residences currently existing as of the effective date hereof. Mail box design shall be left to the preference of individual lot owners. All roofs must have a minimum roof pitch of 6/12.

5. The owner or builder, in building or causing to be built the original house on any lot shall not substantially duplicate the exterior elevation or design of any other house then existing or in the process of construction in said subdivision within five hundred (500) feet of said lot.
6. Each lot shall be a single dwelling site and no lot may be split to provide two or more building sites. In the event, however, any person shall purchase two or more adjacent lots and shall desire to construct a single dwelling on said adjoining lots as one 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. Lots between lots may be split between adjacent lot owners with the same effect.
7. No building shall be located nearer than 35 feet to the front line or nearer than 25 feet to any side street. No building shall be located nearer than 10 feet to an interior lot line nor nearer than 15 feet to the rear lot line.
8. No noxious or offensive activity shall be carried on upon a lot, nor anything be done thereon which shall be or may become annoyance or nuisance to the neighborhood
9. No junkyard maybe established on the property and a junkyard is to be defined as an accumulation of one or more inoperative automotive vehicles, automobiles and/or trucks, nor shall there be any accumulation of scrap iron, junk or trash on the premises.
10. No structure of a temporary character (trailer, basement, tent, shack, garage, barn, or other out buildings) shall be used on any lot at any time as a residence whether temporarily or permanently. No building may be put on any of the

described lots other than one dwelling house and any additions made to the dwelling house will be attached to and conform to the general design of the existing dwelling.

11. Whenever buildings are erected on any lot or parcel and constructed completely or in part of concrete, concrete blocks, or other masonry block units, such material shall be covered with brick, natural stone, stucco, or other exterior surface material conforming to existing residences, over the entire surface exposed above finished grade.
12. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than 5 square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period.
13. No large animals or livestock of any type shall be permitted on any lot. Large animals and livestock include, but are not limited to, sheep, goats, cows, calves, mules, pigs or horses.
14. No mobile homes or modular homes may be placed on any lot at any time.
15. No lots shall be used or maintained as a dumping ground for rubbish or trash, and garbage and other waste materials shall not be kept except in sanitary conditions.
16. No individual onsite sewage disposal systems shall be permitted on any lot. Drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers, and/or utility easements as designated herein, or as may hereafter appear on any plat or record in which reference is made to these covenants.
17. No fence of any kind shall be erected from the front line to the front sill line of the main building on any lot. All fences constructed on other areas of the lot must conform to existing fences in Phase I, Unit I.

18. All ground based satellite dishes must be located in the rear yard screened from street view. Roof mounted satellite dishes will not be located on the front (street) side of the house.
19. No boat, trailer, recreational vehicle, racing car or other vehicle of conveyance other than a conventional private passenger vehicle may be kept on a regular basis on or adjacent to any front yard, side yard, or driveway, visible from the street. It is the intention of this restriction to keep such vehicles in garages or behind solid fences or otherwise out of view from other lots in the subdivision.
20. The lake located within the subdivision is for the exclusive use of the lot owners and their guests. No boats in excess of 12 feet in length shall be allowed on the lake. No inboard motor boats shall be allowed and no gasoline outboard motors, in excess of three and one-half horse power shall be allowed on said lake. Jet Skis are prohibited.
21. All common property within the subdivision shall be transferred to Swan Lake Estates Homeowners Association, Inc. Each lot owner within the subdivision shall receive one (1) Certificate of Membership in the Homeowners Association for each lot purchased.
22. Except as otherwise provided herein, each owner of a lot in Swan Lake Estates Subdivision, Phase I, Unit I, shall be a member of Swan Lake Estates Homeowners Association and shall receive 1 Certificate of Membership in the Swan Lake Estates Homeowners Association per each lot owned.
23. Except as otherwise provided herein, each lot owner whether or not it shall be so expressed in his deed is deemed to covenant and agrees to pay to the Swan Lake Estates Homeowners Association (herein Association) an annual assessment on a per lot basis not to exceed \$250.00 per year (which shall include the Swan Lake Estates Maintenance Fund set forth in Clause 24(a) hereof). The amount of this assessment may not be increased without the written approval of 51% of the owners in Phase I, Unit I. Such annual

assessment shall be a charge on the lot and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment shall also be the obligation of the owner of such lot at the time the assessments fall due. The personal obligation for delinquent unrecorded assessments shall not pass to the owner's successors in title unless it is expressly assumed, but the passing of title shall not affect the validity of the lien upon the lot, if such lien has been reduced to writing and duly filed with the Chancery Clerk of Harrison County, MS.

- 24(a). As part of the assessment mentioned in Clause 23 above, the owner of each lot in Swan Lake Estates Subdivision, Phase I, Unit I, shall annually pay an assessment for the purpose of creating a fund to be known as "Swan Lake Estates Subdivision Maintenance Fund." The amount of the annual charge is hereby fixed at \$50.00 per year, per lot. The assessment shall be due in January of each year beginning in the January immediately following the effective date hereof. The amount of the assessment may not be increased without the written approval of 51% of the owners in Phase I, Unit I. The maintenance fund may be used for any purpose in the sole discretion of the Association which shall be for the benefit of the aforementioned lot owners, which purposes, among others, may include, but not be limited to, the upkeep of the entrance ways, public rights of way, insect control and employment of watchmen.
- 24(b). Notwithstanding anything aforesaid and notwithstanding anything hereafter stated, if, for any reason whatsoever, any lot or lot owner in Phase I, Unit I is denied any membership privilege (voting or any other privilege of members, no matter how insignificant) in the Swan Lake Estates Homeowners Association then, in that event, any such owner(s) of a lot or lots in Phase I, Unit I shall have the option of withdrawing from the Swan Lake Estates Homeowners Association, and, in the event of such a written withdrawal, such owner(s) shall no longer be obligated to pay the Association's annual assessment set forth in Clause 23 above, except for the \$50.00 per year maintenance fund as set forth in Clause 24(a) above, but shall continue to enjoy all of the benefits and privileges afforded to all other owners within Phase I, Unit I, or any other

phase of Swan Lake Estates Subdivision. In the event the Swan Lake Estates Homeowners Association ever attempts to take any punitive action against any owner of a lot in Swan Lake Estates Subdivision, Phase I, Unit I, or in the event that the Swan Lake Estates Homeowners Association attempts to assess any fine against any owner of a lot or lots in Swan Lake Estates Subdivision, Phase I, Unit I, then, in such event, any such owner(s) of lots in Phase I, Unit I, shall have the option of withdrawing from the Swan Lake Estates Homeowners Association and, in the event of such written withdrawal, such owner(s) shall no longer be obligated to pay the Association's annual assessment set forth in Clause 23 above except for the \$50.00 per year maintenance fund as set forth in Clause 24(a), but shall continue to enjoy all of the benefits and privileges afforded to all other lot owners within any phase of Swan Lake Estates Subdivision.

- 24(c). Except as provided in Clauses 24(a) and 24(b) above, no owner of any lot or lots in Phase I, Unit I, shall have any further monetary obligation to the Swan Lake Estates Homeowners Association.
- 24(d). The Swan Lake Estates Homeowners Association shall have no authority to borrow any money which would in any way obligate any lot owner of Phase I, Unit I. Notwithstanding the aforesaid, any lot owner may agree in writing to share in the responsibility of such a loan, but these covenants and restrictions do not authorize the Swan Lake Estates Homeowners Association to incur any liability on behalf of any lot owner, except as specifically authorized hereby. Any attempt on the part of the Swan Lake Estates Homeowners Association to involuntarily impose any such loan obligation, or any other obligation not provided for herein, shall authorize any affected owner in Phase I, Unit I to elect to withdraw from the Homeowners Association as provided in Clause 24(b) hereof.
- 24(e). In the event any owner of a lot in Phase I, Unit I wishes to avail itself of its option to withdraw from the Swan Lake Estates Homeowners Association, as provided in Clauses 24(b) and 24(d) above, then such withdrawal shall be in writing and shall be addressed to the Swan Lake Estates Homeowners

Association at P.O. Box 3748, Gulfport, MS 39505 and shall become effective upon the same being posted with the United States Mail, postage prepaid. Thereafter, the lot or lots owned by such owner(s) shall not be obligated to be a member of the Swan Lake Homeowners Association, except upon the then-owner of said lot(s) voluntarily agreeing to reassume membership obligations in writing.

25. The Homeowners Association shall assume responsibility for maintaining all common areas.
26. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage on the property. Provided however, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall only extinguish the lien created by assessments prior to such sale or transfer, and no such sale or transfer shall relieve any lot from liability for any assessments thereafter becoming due or from the lien thereof. Upon obtaining title to the property the first mortgage holder and all subsequent Grantee's shall be bound by these covenants and assessments.
27. RIVER FRONT LOTS: The following covenants shall apply to all lots abutting the Little Biloxi River:
  - A. There shall be no removal, destruction, cutting mowing, alteration or spraying with biocides of any living vegetation, nor any disturbance or change in the natural habitat in any manner within the "floodway zone" as designated on the official plat.
  - B. Construction of boat docks or piers along the Little Biloxi River is prohibited.
28. These Amended and Re-stated Covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of 25 years from the date and time these Amended and Re-stated Covenants are filed for recording, after which said covenants shall be automatically extended for successive periods of 10 years, unless an instrument signed by the majority of the then owners of lots has been filed for recording agreeing to change said

covenants in whole or in part, provided however, these covenants may be amended at any time with the written consent of at least 51% of the owners in Phase I, Unit I. For the purpose of amending or extending these covenants, owners of multiple lots shall be granted one vote per lot.

29. Enforcement shall be by proceeding at law or in equity against any person violating or attempting to violate any covenants, either to restrain the violation thereof or to recover damages therefor. These Amended and Re-stated Protective Covenants may be enforced by any owner of a lot in Swan Lake Estates Subdivision, Phase I, Unit I, in any court of competent jurisdiction. The Swan Lake Estates Homeowners Association shall not be authorized to enforce any of these Covenants, except upon being given written permission by at least 51% of the current owners of lots in Phase I, Unit I.
30. Invalidation of any one of these covenants by a Judgment or Court Order shall in no way affect any of the other provisions, which shall remain in full force and effect.

The above and foregoing Amended and Re-stated Protective Covenants for Phase I, Unit I shall amend and replace the Protective Covenants dated April 21, 1995 and so recorded in Deed Book 1320 at Pages 671 – 674, and shall now constitute all and singular of the Protective Covenants for Swan Lake Estates Subdivision, Phase I, Unit I.

The effective date of these Amended and Re-stated Protective Covenants for Phase I, Unit I shall be the date and time at which they are filed for record in the Land Deed Records of the First Judicial District of Harrison County, Mississippi.

These Amended Re-Stated Protective Covenants may be executed in multiple counterparts and assembled into one effective document for recording purposes.

In witness whereof, the current owners of over 51% of the lots in Phase I, Unit I, have caused this instrument to be duly executed on the days and dates hereinafter set forth.