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BY-LAWS

OF

HIDDEN CREEK
RESIDENTIAL ASSOCIATION

(A NOT FOR PROFIT CORPORATION)



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BY-LAWS OF HIDDEN CREEK RESIDENTIAL ASSOCIATION

A CORPORATION NOT FOR PROFIT UNDER THE LAWS OF THE STATE OF ALABAMA

ARTICLE I ASSOCIATION OF PROPERTY OWNERS

1.1 Hidden Creek Residential Association, Inc, located in the City of Pelham, Shelby County, Alabama, shall be administered by Hidden Creek Residential Association, Inc. which shall be a non-profit corporation, hereinafter called the "Association", organized under the applicable laws of the State of Alabama, and responsible for the management, maintenance, operation and administration of the Common Elements, easements and affairs of the Association in accordance with the Master Deed, the Association By-Laws, the Articles of Incorporation, Association Covenants and duly adopted Rules and Regulations of the Association, and the laws of the State of Alabama. All Property Owners in the Association and all persons using or entering upon or acquiring any interest in any Property therein or the Common Elements thereof shall be subject to the provisions and terms set forth in the aforesaid Association Documents.

1.2 The Association may provide for independent, professional management of the Association.

1.3 The office of the Association will be where the records are kept. The President will maintain the current records at his/her residence and the Management Company (if applicable) will keep the permanent records.

1.4 Membership in the Association and voting by members of the Association shall be in accordance with the following provisions:

- (a) Each Property Owner (or their designee such as a Guardian) shall be a member of the Association and no other person or entity shall be entitled to membership.
- (b) Each Property Owner shall be entitled to one vote for each Association Property owned.
- (c) No Property Owner shall be entitled to vote at any meeting of the Association until proof of ownership of a Property in the Association has been verified by the Association or its duly authorized agent. The vote of each Property Owner may be cast only by the individual representative designated by such Property Owner in the notice required in subparagraph (d) below or by a proxy given by such individual representative.
- (d) Each Property Owner shall give notice to the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communication from the Association on behalf of such Property Owner. Such notice shall provide the name and address of the individual representative designated, the number or numbers of the Property owned by the Property Owner, and the name and address of each person, firm, corporation, partnership, association, trust or other entity who is the Property Owner. The individual representative designated may be changed by the Property Owner at any time by filing a new notice in the manner herein provided.

1.5 There shall be an annual meeting of the members of the Association on such date during the month of January as the Board shall annually determine.

- (a) Other meetings may be provided for in the By-Laws of the Association. Notice of time, place and subject matter of all meetings, as provided in the corporate By-Laws of the Association, shall be given to each Property Owner by newsletter and publicity within the Hidden Creek complex.
- (b) Votes may be cast in person or by proxy or by writing duly signed by the designated voting representative not present at a given meeting in person or by proxy. Proxies and any written votes must be filed with the Secretary of the Association or its duly authorized agent at or before the appointed time of each meeting of the members of the Association.
- (c) A majority at the annual meeting shall consist of more than fifty "50%" percent of those present and qualified to vote and present in person or by proxy (or written vote, if applicable).
- (d) Other provisions as to voting by members, not inconsistent with the provisions herein contained, may be set forth in the Association By-Laws.

1.6 The Association, or its designated management company, shall keep detailed books of account showing all expenditures and receipts of administration which shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and the Property Owners. Such accounts and all other association records shall be available at any time to Property Owners, or their designee upon reasonable notice and for inspection by the Property Owners and their mortgagees.

1.7 The Association, or its designated Management Company, shall prepare and distribute to each Property Owner at least once a year a financial statement, the contents of which shall be defined by the Association. (See Article XIII)

- (a) The books of account shall be audited at least annually by qualified independent auditors; provided, however, that such auditors need not be certified public accountants nor does such audit need to be a certified audit. Any institutional holder of a first mortgage lien on any Property shall be entitled to receive a copy of such annual audited financial statement within 90 days following the end of the Association's fiscal year upon request therefore.
- (b) The costs of any such audit and any accounting expenses shall be expenses of the Association.

1.8 The Association also shall maintain on file current copies of the Master Deed for the Property, any amendments thereto and all other Property Documents and shall permit all Property Owners, prospective purchasers and prospective mortgagees interested in Hidden Creek to inspect the same upon written request to the Association or its duly authorized agent. Copies may be obtained at a reasonable cost from the Clerk of Courts.

1.9 The affairs of the Association shall be governed by a Board of Directors, all of whom shall serve without compensation and who must be members of the Association. The number, terms of office, manner of election, removal and replacement, meetings, quorum and voting requirements, and other duties or provisions of or relating to Directors shall be provided by the Association By-Laws.

1.10 Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by

reason of his being or having been a Director or Officer of the Association, whether or not he is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty or liable of intentional misconduct in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors (with the Director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

1.11 Fiscal Year. The fiscal year of the Association shall be the calendar year.

ARTICLE II **MEMBERSHIP**

2.1 Membership. The Members of the Association shall consist of all Property Owners. There shall be one vote for each lot owned.

2.2 Classes of Membership. The Members shall have one class of membership, consisting of both owners of Garden Homes and Town Homes as defined in Article XV, Section 15.15 & 15.16.

2.3 Rights and Obligations of Membership. The Members shall have all the rights, privileges, duties and obligation as set forth in the Covenants, Articles of Incorporation, and elsewhere set forth in the By-Laws.

ARTICLE III **ASSESSMENTS**

The rights of membership are subject to the payment of such assessments, fees and other charges as might be imposed, leveled or set by the Board. The obligation for the payment of assessments and charges is imposed against each Property Owner of, and is a lien upon, the Property against which the assessment or charge is made, as provided by the Covenants, which in substance provides as follows:

3.1 Purpose of Assessments. The assessments levied by the Board shall be used exclusively for the purpose of (i) providing any and all services and activities as may be to the mutual benefit of the Members; (ii) maintaining, operating and repairing of the Common Areas and other areas and structures beneficial or useful to the Subject Property; (iii) the payment of taxes and insurance on all property of the Association, and the repair, replacement and additions thereto, and for the cost of labor, insurance, equipment, materials, management, and supervision thereof; (iv) such other purposes beneficial to the Members as determined by the Board; and (v) caring out the functions, purposes, responsibilities and duties of the Association as set forth in the Covenants, the Articles of Incorporation and . The Association does not assure that any services will be provided and nothing herein shall be construed as an obligation to provide any services, except to the extent required in the Covenants.

3.2 Personal Obligations and Members. Each Member shall be deemed to covenant and agree to pay to the Association the assessments and charges, the assessments to be fixed, established and collected from time to time as provided in the Covenants, Articles of Incorporation and these By-Laws. Each assessment and other charges, together with interest and cost of collection, including reasonable attorneys' fees, shall be the personal obligation of the Property Owner at the time when the assessment or charge fell due.

3.3 Amounts of Assessment [s]. The assessment applicable to Properties shall be set forth by the Board as set forth in the Covenants.

- 3.4 Effect of Non Payment of Assessments; Remedies of the Association.** Any assessments not paid within thirty (30) days after the due date shall incur a late fee(s) of 10% per annum until the assessment is paid. Late fees are posted on a monthly basis.
The Association may bring any action at law against any Member personally obligated to pay the same. No Member may waive or otherwise escape liability for the assessments provided for the Covenants or in these By-Laws by non-use of the Common Areas or other areas to which assessments are applied or abandonment of the Property owned by such Member.
- 3.5 Subordination of Lien to Mortgages.** The lien of any assessment or charge authorized by the Covenants of this Article of these By-Laws with respect to a Member's Property is subordinate to the lien of any *bona fide* mortgage, if and only if all fees, assessments and charges levied against the Property due and payable on or prior to the date the mortgage is recorded have been paid. The sale or transfer of any Member's Property pursuant to a sale under power contained in a mortgage on a Property or pursuant to a deed in lieu of foreclosure thereof or pursuant to a judicial foreclosure thereof, shall extinguish the lien for assessments falling due prior to the date of such sale, transfer or foreclosure, but the Association shall have a lien on the proceeds of such sale senior to the equity of redemption to the mortgagor. The foregoing subordination neither shall nor relieve the Member whose Property has been mortgaged of the Member's personal obligation to pay all assessments and charges falling due the time the Member is the owner of the Property. The Board may at any time, either before or after the mortgaging of any Member's Property, waive, relinquish, or quitclaim in whole or in part the right of the Association to assessments and other charges collectible by the Association with respect to the Property coming due during the period while the Property is or may be held by the mortgagee or mortgagee [s] pursuant to the sale of the transfer.
- 3.6 Suspension of Membership Rights.** The membership rights of any Member, including the right to vote, may be suspended by the Board for any assessment or charge to the Association by the Member for as long as the assessment and/or charge remains unpaid.
- 3.7 Assessments** shall be determined in accordance with the following provisions:
- (a) The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Property, including a reasonable allowance for contingencies and reserves. An adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis must be established in the budget and must be funded by regular monthly payments rather than by special assessments. At a minimum, the reserve fund shall be equal to 20% of the Association's current annual budget.
Since the minimum standard required by this Section may prove to be inadequate for a particular project, the Association's Board of Directors shall carefully analyze the Property to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes from time to time.
- (b) Upon adoption of an annual budget by the Board of Directors, copies of said budget shall be available to each Owner and the assessment for said year shall be established based upon said budget, although the delivery of a copy of the budget to each Owner shall not affect or diminish in any way the liability of any Owner for any existing or future assessments.
- (c) Should the Board of Directors at any time determine, in the sole discretion of the Board of Directors: (1) that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Property, (2) to provide replacements or repair to existing common elements, (3) to provide additions to the common elements not exceeding \$5,000 annually for the entire Property Complex or, (4) in the event of emergencies, the Board of Directors shall have the authority to increase the general assessment, not to exceed 50% of the current assessment or to levy such additional assessments as it shall deem necessary.

(d).The Board of Directors shall also have the authority, without owner consent, to levy assessments subject to the other terms/conditions of this section. The discretionary authority of the Board of Directors to levy assessments pursuant to this subparagraph shall rest solely with the Board of Directors for the benefit of the Association and the members thereof, and shall not be enforceable by any creditors of the Association or the members thereof.

3. 8 No Owner may exempt himself from liability for his contribution toward the expenses of administration by waiver to the use or enjoyment of any of the Common Elements or by the abandonment of his Property.

3. 9 The Association may enforce collection of delinquent assessments by a suit at law for a money judgment each owner, and every other person who from time to time has any interest in the Property, shall be deemed to have granted to the Association the unqualified right to elect to file such lien by judicial action. Each owner of a Property acknowledges that at the time of acquiring title to such Property, he was notified of the provisions of this Section and that he voluntarily, intelligently, and knowingly waived notice of any proceedings brought by the Association to file a lien for nonpayment of assessments.

Notwithstanding the foregoing, the filing of a lien shall not be commenced until the expiration of fifteen (15) days after mailing, by certified mail, return receipt requested, addressed to the delinquent owner(s) at his or their last known address of a written notice that one or more installments of the annual assessment levied against the pertinent Property is or are delinquent and that the Association may invoke any of its remedies hereunder if the default is not cured within thirty (30) days after the date of mailing. Such written notice shall be accompanied by a written affidavit of an authorized representative of the Association that sets forth (i) the affiant's capacity to make the affidavit, (ii) the statutory and other authority for the lien, (iii) the amount outstanding (exclusive of interest, costs, attorney fees and future assessments), (iv) the legal description of the subject Property (s), and (v) the name(s) of the owner(s) of record. Such affidavit shall be recorded in the Office of the Register of Deeds in the Shelby County prior to commencement of any lien proceeding, but it need not have been recorded as of the date of mailing as aforesaid. If the delinquency is not cured within the forty-five (45) day period, the Association may take such remedial action as may be available to it hereunder or under Alabama law.

3.10 The expenses incurred in collecting unpaid assessments, including interest, costs, actual attorneys' fees (not limited to statutory fees) and advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Owner in default and shall be secured by the lien on his Property . In the event of default by any owner in the payment of the annual assessment levied against his Property, the Association shall have the right to declare all unpaid assessments immediately due and payable.

An owner in default shall not be entitled to vote at any meeting of the Association so long as such default continues.

3.11 From the date of the closing of the first sale of a Property to purchaser, the owner shall commence payment of the Association assessment with respect to each Property owned by him and shall pay such assessment with respect to each Property owned by him as long as such ownership continue

At the date of the closing, the owner may be assessed a one-time fee to cover administrative costs.

3.12 Pursuant to provisions of the Alabama Property Act, the purchaser of any Property may request a statement of the Association as to the outstanding amount of any unpaid Association assessments

thereon, whether regular or special. Upon written request to the Association or its duly authorized agent accompanied by a copy of the executed purchase agreement pursuant to which the purchaser holds right to acquire a Property, the Association or its duly authorized agent shall provide a written statement of such unpaid assessments as may exist or a statement that none exist, which statement shall be binding upon the Association for the period stated therein. Upon the payment of that sum within the period stated, the Association's lien for assessments as to such Property shall be deemed satisfied; provided, however, that failure of a purchaser to request such statement at least five days prior to the closing of the purchase of such Property, shall render any unpaid assessments and lien securing same, fully enforceable against such purchaser and the Property itself, to the extent provided by the Act. Under the Act, unpaid assessments constitute a lien upon the Property and the proceeds of sale thereof prior to all claims except real property taxes and first mortgages of record.

ARTICLE IV

REMEDIES FOR DEFAULT

4.1. Any default by an Owner shall entitle the Association the following relief:

(a) Failure to comply with any of the terms or provisions of these By-Laws shall be grounds for relief, which may include without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien (If default in payment of assessment) or any combination thereof, and such relief may be sought by the Association or, if appropriate, by an aggrieved Property Owner.

(b) In any proceeding arising because of an alleged default by any Property Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (not limited to statutory fees), as may be determined by the court. Any Owner, if successful, shall be entitled to recover the costs, but in no event shall any Owner be entitled to recover such attorneys' fees.

(c) The violation of any of the provisions of these By-Laws by any Owner, or by any occupant of a property shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations. No fine may be assessed unless Rules and Regulations establishing such fine have first been duly adopted by the Board of Directors of the Association and notice thereof given to all Property Owners in the same manner as prescribed by the Association By-Laws. Thereafter, fines may be assessed only upon notice to the offending Property Owner as prescribed in these By-Laws and an opportunity for such Property Owner to appear before the Grievance Committee no less than ten (10) days from the date of the notice and offer evidence in defense of the alleged violation. No fine shall be levied for the first violation, however there will be a letter of reprimand sent via certified mail, the second violation will be subject to a fine and the third violation will be subject to an increased fine. Subsequent violations will continue to be levied. Fees are subject to change. The fee schedule is on file at the Management Company and published in the Association's newsletter.

4.2 The failure of the Association or of any Owner to enforce any right, provisions, covenant or condition which may be granted by these By-Laws shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provisions, covenant or condition in the future.

4.3 All rights, remedies and privileges granted to the Association or Property Owner pursuant to any terms, provisions, covenants or conditions of the aforesaid By-Laws shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of

remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

ARTICLE V **RESTRICTIONS**

5.1 Residential Purpose: No Property shall be used for any purpose other than residential purposes and the Common Elements shall be used only for purposes consistent with the use of residence.

5.2 Leasing of Property: An Owner may lease his Property for the same purposes set forth in Section 1 of this Article V; provided that written disclosure of such lease transaction is submitted to the Board of Directors of the Association. With the exception of a lender in possession of a Property following default of a first mortgage, foreclosure or deed or other arrangement in lieu of foreclosure, no tenant shall be permitted to occupy except under a written lease, the initial term of which is at least one (1) year, unless specifically approved in writing by the Association. All occupants subject to a rental agreement and/or lease agreement, shall be held jointly and severally responsible for all of the provisions of these By-Laws. The leasing of Property shall conform to the following provisions:

(a) An Owner desiring to rent or lease a Property shall disclose that fact in writing to the Association at least twenty-one (21) days before leasing the Property and shall supply the Association with a copy of the exact lease form for its review for its compliance with these By-Laws.

(b) Tenants or non-owner occupants shall comply with all of the conditions of these By-Laws and all leases and rental agreements shall so state in writing by signing a letter of compliance.

(c) If the Association determines that the tenant or non-owner occupant has failed to comply with the conditions of these By-Laws, the Association shall take the following action:

(i) The Association shall notify the Owner by certified mail advising of the alleged violation by tenant.

(ii) The Owner shall have fifteen (15) days after receipt of such notice to investigate and correct the alleged breach by the tenant or advise the Association that a violation has not occurred.

(iii) If after fifteen (15) days, the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the Property Owners on behalf of the Association. The Association may hold both the tenant and the Owner jointly and severally liable for any damages caused by the Owner or tenant in connection with the Property. Failure to correct and/or cure any alleged breach after receipt of notices set out in Article 5.2 (ii) may result in penalties and fines as more fully set forth herein.

5.3 Alteration of Exterior Appearance: No Owner shall make alterations in exterior appearance or make structural modifications to his Property or make changes in any of the Common Elements, Limited or General, without the express written approval of the Board of Directors, including (but not by way of limitation) exterior painting or the erection of antennas, lights, aerials, awnings, doors, shutters, or other exterior attachments or modifications.

All owners should be aware that Hidden Creek is designated as a Special District by the City of Pelham and as such is subject to zoning restrictions not delineated herein and subject to the approval of the City of Pelham..

5.4 Improper Activities: No unlawful, improper, or offensive activity shall be carried on in any Property or upon the Common Elements, nor shall anything be done which may be or become an annoyance or a nuisance to the other Property Owners, nor shall any unreasonably noisy activity be carried

on in any Property or on the Common Elements. No Owner shall do or permit anything to be done or keep or permit to be kept in his Property or on the Common Elements anything that will increase the rate of insurance on the Property without the written approval of the Association and each Owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition.

5.5 Pets: Pet owners are expected to observe the provisions of the By-Laws and Covenants of the Association pertaining to pets including, but not limited to:

- (a) Any pets permitted to be kept in the Property shall have such care and restraint as not to be obnoxious on account of noise, odor or unsanitary conditions.
- (b) No animal may be permitted to run loose, or left unattended upon the Common Elements and animal shall be attended by some responsible person while on the Common Elements.
- (c) No savage or dangerous animal of any type shall be kept and any Owner who causes any animal to be brought, maintained or kept on the premises of the Property for any length of time shall indemnify and hold harmless the Association for any loss, damage, or liability, including attorney fees and costs, which the Association may sustain as a result of the presence of such animal on the premises, whether such animal is permitted or not, and the Association may assess and collect from the responsible Owner such losses and/or damages.
- (d) Each Owner owning a pet shall be responsible for the collection and disposition of all fecal matter deposited by any animal maintained by such Owner.
- (e) No dog which barks and can be heard on any frequent or continuing basis shall be kept in any Property or on the Common Elements. Enforcement shall be in accordance with the Noise Law of the City of Pelham.
- (f) The Association may also assess fines for such violation of the restrictions imposed by this Section or by any applicable rules and regulations of the Association in accordance with the current fee schedule.

5.6 Vehicles: House trailers, commercial vehicles, boat trailers, camping vehicles, camping trailers, motorcycles, and any other recreational vehicle (other than passenger/utility vehicles) may be parked or stored upon the Property, so that they cannot be seen from the street. Commercial vehicles greater than 7000 lbs GVW (Gross Vehicle Weight) and trucks shall not be parked in or about the Property (except as above provided) unless while making deliveries or pickups in the normal course of business. Pick-ups used as primary personal transportation are excluded.

5.7 Prohibition of Dangerous Devices Upon the Property Premises:

No Owner shall use, or permit the use by any occupant, agent, employee, invitee, guest or member of his family of any firearms, air rifles, pellet guns, B-B guns, bows and arrows fireworks or any explosive devices, or other similar dangerous weapons, projectiles or devices anywhere on or about the Property Premises.

5.8 Porches & Patios No unsightly condition shall be maintained upon any porch or patio, and only furniture and similar outdoor cooking equipment such as gas grilles consistent with ordinary porch and patio use shall be permitted to remain there during seasons when such areas are not reasonably in use.

5.9 Care of Property: Each Owner shall be responsible for maintaining his Property in a safe, clean and sanitary condition. Each Owner shall be responsible for damages and costs to the Association resulting from negligent damage or misuse of any of the Common Elements by him, his family, guests, pets, agents or invitee, unless such damages or costs are covered by insurance carried by the Association in which case there shall be no responsibility (unless reimbursement to the Association is excluded by virtue of a

deductible provision, in which case the responsible Owner shall bear the expense to the extent of the deductible amount). Any costs or damages to the Association may be assessed to and collected from the responsible Owner in the manner provided in these By-Laws. Any damage to another Owner's Property shall be the responsibility of the Owner whose Property caused the damage.

ARTICLE VI

BOARD OF DIRECTORS

- 6.1 Election of Directors.** Elections to the Board by the Members shall be by written ballot as hereinafter provided. At these elections, the Members or their proxies may cast as many votes as there are vacancies to be filled on the Board for each Property in which they hold any interest required for membership by the Articles of Incorporation, and each Member shall have the right to cumulate that Member's vote and to give one candidate a number of votes equal to the Member's vote multiplied by the number of Directors to be elected, or by distributing votes amongst any number of the candidates. The names receiving the largest number of votes shall be elected. The Board shall consist of at least five (5) members, but no more than nine (9) members.
- 6.2 Nominations Committee.** Nominations for a full slate of Directors for election to the Board by the Members shall be made by the Nominations Committee. The Nominations Committee shall consist of five (5) persons appointed each year by the Board, two (2) of whom shall be Directors, and three (3) of whom shall be Non-Directors. Members of the Nominations Committee shall be appointed each year by the Board of Directors at least forty-five (45) days before the date on which the election for the members of the Board is to be held, and a slate of Directors to be nominated by the Nominations Committee shall be nominated at least thirty (30) days before the date of the election.
- 6.3 Ballots.** All elections to the Board shall be made on a written ballot which shall: (a) describe the vacancies to be filled; (b) set forth the names of those nominated by the Nominations Committee for such vacancies; and (c) containing a space for a write-in-vote by the Members for each vacancy. The ballots shall be prepared and mailed/delivered by the Secretary of the Association to the Members at least fourteen (14) days in advance of the date set forth therein for a return [which shall be a date no later than the date for the annual meeting or special meeting call for election].
- 6.4 Voting Procedure.** Each Member in good standing shall receive as many votes as there are vacancies to be filled on the Board for each Property with respect to which the Member is the record owner. Each Member shall indicate next to the name of the nominee on the ballot the number of votes the Members casts for the election of the nominee to the Board, or shall write in the name of the person not so nominated in the space on the ballot provided for this purpose, together with the number of votes the Member wishes to cast for that person. All ballots shall be signed by the Members casting it and returned to the Secretary of the Association, who upon receipt of each ballot shall immediately place it in a safe place until the day set forth for the annual or special meeting at which the elections are to be held. On that date, the ballots shall be turned over to the Committee which shall consist of five (5) Members appointed by the Board [the "Nominating Committee"]. The Nominating Committee shall then adopt a procedure which shall:
- (1) Establish that the number of ballots turned in by each Member corresponds with the number of Properties owned by that Member or that Member's proxy on the ballot; and
 - (2) If the vote is by proxy, establish that a proxy vote has been filed with the Secretary as provided in these By-Laws and that the proxy is valid.

This procedure by the Nominating Committee shall be taken in a manner so that the vote of any Member or any Member's proxy shall not be disclosed to anyone, including the Nominating Committee.

If any ballot is found to contain more than the number of votes which the Member signing that ballot is entitled to cast, all votes on that ballot shall be disqualified and shall not be counted. After the announcement of the results by the Nominating Committee, unless a review of the procedure is demanded by thirty-five (35%) of the Members casting ballots in the election within ten (10) days after the election, the ballots shall be destroyed.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD

7.1 The Board of Directors shall have all powers and duties necessary for the administration of the affairs of the Association and may do all acts and things as are not prohibited by these By-Laws or required thereby to be exercised and done by the Property Owners. In addition to the foregoing general duties imposed by these

By-Laws, or any further duties which may be imposed by resolution of the members of the Association or which may be set forth in the Association By-Laws, the Board of Directors shall be responsible specifically for the following:

(a) Management and administration of the affairs of and maintenance of Common Elements.

(b) To collect assessments from the members of the Association and to use the proceeds thereof for the purposes of the Association.

(c) To carry insurance and collect and allocate the proceeds thereof.

(d) To rebuild improvements after casualty.

(e) To contract for and employ persons, firms, corporation or other agents to assist in the management, operation, maintenance, and administration of the Property.

(f) To borrow money and issue evidence of indebtedness in furtherance of any and all of the purposes of the business of the Association, and to secure the same by mortgage, pledge, or other lien on property owned by the Association; provided, however, that any such action shall also be approved by affirmative vote of more than sixty (60%) percent of all of the members of the Association qualified to vote.

(g) To make rules and regulations in accordance with Article V of these By-Laws.

(h) To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the Property and to delegate to such committees any functions or responsibilities which are not by law or these By-Laws required to be performed by the Board.

(i) To enforce the provisions of all Property Documents.

(j) The Board of Directors shall employ for the Association a professional management agent at reasonable compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to such management agent any other duties or powers which are not by law or by these By-Laws required to be performed by or has the approval of the Board of Directors or the members of the Association. In no event shall the Board be authorized to enter into any contract with a professional management agent, in which the maximum term is greater than three years or which is not terminable by the Association upon 90 days' written notice thereof to the other party and no such contract shall violate the provisions of the Alabama Property Act.

The Board of Directors shall have the following powers:

7.2 To call special meeting of the Members whenever it deems necessary, and it shall call a meeting at any time upon written request of one-fourth (1/4) of the voting membership, as provided in Section 12.2 hereof.

- 7.3 To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix compensation, and require of them any security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever.
- 7.4 To establish, levy, assess and collect the assessments and charges set forth in Article III hereof.
- 7.5 To adopt and publish rules and regulations governing the use of Common Areas and the facilities, and the personnel conduct of the Members and their guests thereon.
- 7.6 To exercise for the Association all powers, duties, and authorities vested in or delegated to the Association, except those reserved to Members in the Covenants, the Articles of Incorporation, or elsewhere in these By-Laws.
- 7.7 To appoint committees, as it deems in the best interest of the Association to carry out the functions and duties of the Board.
- 7.8 **Director Absence.** In the event that any member of the Board of the Association shall be absent from three (3) consecutive regular meetings of the Board, the Board may at the meeting during which the third absence occur, declare the Office of the absent Director to be vacant, and the provisions relating to the filling of a vacancy of the Board as set forth in these By-Laws shall become operative.

Duties. It shall be the duty of the Board of Directors to:

- 7.9 To cause and be kept a complete record of all it's acts and corporate affairs and to present the statement thereof to the voting Members at the annual meeting of the voting Members or at any special meeting when such is requested in writing by one-fourth (1/4) of the total voting Membership.
- 7.10 To supervise all Officers, Agents, and Employees of the Association, and to issue that their duties are properly performed.
- 7.11 As more fully provided in the Covenants and these By-Laws, to fix the amount of the assessment against each Property owned by a Member at least thirty (30) days in advance of that date of any payment of the assessment is due.
- 7.12 To prepare a roster of the Properties and assessments applicable thereto which shall kept in the offices of the Association and shall be opened to inspection by any Member thereof, and to send written notice of each assessment to any Member thereto.
- 7.13 To issue, or cause an appropriate Officer to issue upon demand by any person, a certificate setting forth whether any assessment has been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
- 7.14 To obtain and maintain a liability insurance policy or policies for the protection of the Association covering the Common Areas and covering such risks and with such deductible amounts as the Board shall determine.

ARTICLE VIII

DIRECTOR'S' MEETINGS

- 8.1 **Time and Place.** Meetings of the Board of Directors may [shall] be held at any place within the or without [the jurisdiction] of Shelby County, Alabama. The annual meeting of the Board of Directors shall be held immediately following the close of the annual meeting of the Members and at the place thereof, or the Board of Directors may hold any annual meeting at the time and place as shall be fixed by the consent in writing of a majority of the Directors. Regular meetings of the Board of Directors may be held at the time and place (within or without) Shelby County, Alabama as shall from time to time be determined by the Board.

- 8.2 Action without a Meeting.** Any action required or permitted by the Alabama Nonprofit Corporation Act, [Title 10, Chapter 3A, Code of Alabama, (1975)], to be taken at a meeting of the Board of Directors or a Committee thereof, may be taken without a meeting if the action is taken by all Members of the Board or of the Committee, as the case may be. The action shall be evidenced by one or more written consents describing the action taken, signed by each Director or Committee Member, as the case may be, and included in the minutes or filed with the Association records reflecting the actions taken. Members of the Board of Directors or any Committee designated thereby also may participate in a meeting of the Board or Committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the manner can hear each other at the same time and participation by this means shall constitute presence in person at the meeting. Action taken under Section 8.2 is effective when the last Director or Committee Member, as in this case may be, signs the consent specifies a different effective date. Consent under Section 8.2 has the full effect of a meeting vote and may be as described in any document.
- 8.3 Notice.** Notice of a regular meeting of the Board of Directors will be posted at the entrances of the complex at least one week in advance of the meeting.
- 8.4 Special Meeting [s].** Special meetings of the Board of Directors' shall be when called by any Officer of the Association or by any two (2) Director s after not less than three (3) days' notice of each Director.
- 8.5 Waivers, Consents, and Approvals.** The transaction of any business at the meeting of the Board, however called and noticed, or whenever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent of the holding of such meeting, or an approval of the minutes thereof. All waivers, consents of approvals shall be filed with the corporate records and shall be made part of the minutes of the meetings.
- 8.6 Quorum.** The majority of the Board shall constitute of a quorum thereof.
- 8.7 Adjourned Meeting.** If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that may have been transacted at the meeting as originally called, may be transacted without further notice.

ARTICLE IX

OFFICERS

- 9.1 Officers.** The Officers shall be a President, a Vice President, a Secretary, and a Treasurer. The President and the Vice President shall be Members of the Board. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. Past Presidents are considered ex-officio members of the Board of Directors
- 9.2 Majority Vote.** The offices shall be chosen by majority vote of the Directors.
- 9.3 Term.** All officers shall hold office at the pleasure of the Board, but in no event shall any officer hold office for a term longer than three (3) years.
- 9.4 President.** The President shall preside at all meetings of the Board and shall see that the Orders and Resolutions of the Board are carried out, and sign all notes, checks, leases mortgages, deeds and all other written instruments as may be incidental to the Orders and Resolutions of the Board.
- 9.5 Vice President.** The Vice President shall perform all of the duties of the President in the President's absence.
- 9.6 Secretary.** The Secretary shall be "ex-officio" the Secretary of the Board and shall record the vote and keep the minutes of all proceedings in a book to be kept for such purpose. The Secretary shall keep the records of the Association. The Secretary shall record in a book kept for such purpose the names of the Members of the Association together with their addresses as registered by the Members. The Secretary

shall give notice of meetings as required and shall receive and file proxies of Members as provided in these By-Laws.

- 9.7 Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; provided, however, that a resolution of the Board shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association, provided the checks and notes also shall be signed by the President.
- 9.8 Bookkeeping.** The Treasurer shall keep proper books of account and, if required by resolution of the Board, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year. Unless required by Resolution of the Board, there is no requirement that the audit be made by public accountant. The Treasurer shall prepare the annual budgets and an annual budgets and an annual balance sheet statement and the budget and balance sheet statement and the budget balance and balance sheet statement shall be presented to the Membership at it's regular annual meeting.
- 9.9 Salaries.** The officers of the Association shall not be entitled to any salaries or other compensation except for reasonable expenses incurred on behalf of the Association which shall be reimbursed.

ARTICLE X COMMITTEES

- 10.1 Standing Committees.** There shall be no requirement of standing committees of the Association. From and after the first annual meeting of the Members, the standing committees of the Association may be the Architectural Review Committee and the Finance Committee and the Grievance Committee and the Publicity Committee. These Committees, if and when established and chosen by the Board, shall have the duties set forth herein, provided, however, that the Board may in its discretion add to or reduce such duties, and may in its discretion combine the duties of two (2) or more committees into one (1) committee.

Unless otherwise provided, herein or by the Board, each Committee shall consist of a Chairman, and two (2) or more Members and shall include a Member of the Board.. The committees may be appointed by the Board immediately after each annual meeting or at any other time as the Board determines to serve until the close of the next annual meeting. The Board may appoint other standing or special committees as it is deemed desirable.

10.2 Architectural Review Committee (ARC).

(a) The ARC shall advise the Board on all matters pertaining to the maintenance, repair or improvement of the Common Areas and shall perform other functions as the Board shall, in its discretion, shall determine.

(b) The ARC shall at all times act pursuant to the guidelines and policies set out in the Architectural Review Committee Development and Architectural Standards.

- 10.3 Grievance Committee.** It shall be the duty of the Grievance Committee to receive complaints from Members of any matter involving the Association functions, duties, and activities in its field of responsibility. It shall dispose of these complaints as it deems appropriate or refer them to another Committee, Director, or Officer of the Association as is further concerned with the matter presented.

- 10.4 Publicity Committee.** It shall be the responsibility of the Publicity Committee to keep all Property Owners informed of the activities of the Association via Newsletters, mailing or whatever means the Board shall determine.

- 10.5 Finance Committee.** It shall be the responsibility of the Finance Committee to monitor the expenses of the Association, to make recommendations to the Board regarding expenditures and to prepare the yearly budget.

ARTICLE XI
MEETINGS OF MEMBERS

- 11.1 Annual Meeting.** There will be an Annual Meeting of the members of the Association on such date during the month of January as the Board shall annually determine.
- 11.2 Special Meeting.** Special meetings of the Membership for any purpose may be called at any time by the President, Vice President, and Secretary or by the Treasurer, or by any two (2) or more Members of the Board. In addition, special meetings of the Voting Membership must be called upon the written request of the Members who have a right to vote one-fourth (1/4) of the total votes entitled to be cast under the provisions of the Articles of Incorporation at the time the written request is made.
- 11.3 Notice.** Notice of any meetings of Membership shall be given to the Members by the Secretary. Notice may be given **[to the Members]** either personally, or by sending a copy of the notice through the mail, postage thereon fully paid, and his/her address appearing on the books of the Association, or by public posting in the Common Area at each entrance to the Hidden Creek subdivision. Each Member shall register that Member's address with the Secretary, and notices of meetings shall be mailed to that Member at that address.
- 11.4 Quorum.** The presence, either in person or by proxy, the Members holding at least Fifty "50%" percent or more of those present and eligible to vote shall constitute a quorum.

ARTICLE XII
INSURANCE, BONDS, AND INDEMNIFICATION

- 12.1 Fidelity Bonds.** The Board of Directors may require that any contractor or employee of the Association handling or responsible for Association funds furnish an adequate fidelity bond. The premium for this bond shall be paid by the Association for employees **only**, and shall constitute a "Common Expense", hereinafter defined.
- 12.2 Types of Insurance Coverage.** The Association shall maintain in effect at all times any and all of insurance required by the Covenants, any workman's compensation, or other insurance required by law, and other insurance as the Board of Directors may from time to time in its sole discretion deem appropriate. The Board of Directors shall review the amount and terms of such insurance annually.
- 12.3 Damage of Destruction of Common Areas.** Immediately after the damage or destruction by fire or other casualty of all or any part of the Common Area covered b insurance written in the name of the Association, Board of Directors or its duly authorized agents shall proceed with the filing and adjustment of all claims arising under the insurance, and, in that event, the Board shall obtain reliable estimates of the cost of repair or reconstruction of the damaged or destroyed property in order to repair or reconstruct the same to substantially the same condition in which it existed prior to the fire or other casualty. The Association promptly shall commence and complete the repair and restoration of any portions of the Common Area damaged by any fire or other casualty. If the insurance proceeds for the damage or destruction are not sufficient to defray the cost thereof, and the deficiency cannot be appropriated from a reserve fund as may have been established for that purpose, the Board of Directors may levy a special assessment against all Members subject to the approval of the special assessment by fifty-one (51%) of all Members of the Association, to provide funds to pay the access costs of repair reconstruction. Any special assessment shall be levied against the Members in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of any special assessments shall be held by and for the benefit of the Association together with insurance proceeds, if any, for the damage or destruction. Insurance proceeds and assessments shall be disbursed by the Association in payment for the repair and reconstruction as is established by the Board of Directors. Any proceeds remaining after defraying these costs shall be retained by and for the benefit of the Association. If it is determined by the Board of Directors that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, all proceeds shall be retained by and for the benefit of the Association, and the ruin of the Common Area damaged or destroyed by fire or other casualty shall be cleared and the Common Area left in a clean, safe and acceptable condition.

ARTICLE XIII
INSPECTION OF BOOKS AND PAPERS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Member.

ARTICLE XIV
PARLIAMENTARY RULE

Robert's Rule of Order shall be governing the conduct of Association Proceedings when not in conflict with the Covenants or Articles of Incorporation.

ARTICLE XV
DEFINITIONS

All terms used herein shall have the same meaning as set forth in the Master Deed to which these By-Laws are attached as an Exhibit or as set forth in the Alabama Property Act. The pronoun "his" as used in these By-Laws shall be considered proper generic terminology for the pronouns his and her, and is in no way being used as a sexually discriminatory term.

- 15.1 Articles of Incorporation.** The articles of incorporation of the Association, as filed in the office of the Judge of Probate, Shelby County, Alabama.
- 15.2 Association.** Hidden Creek Residential Association, Inc., its successors and assigns.
- 15.3 Association Land.** Any real property which may at any time hereafter be owned by the Association for so long as the Association or successor thereof may be owner thereof.
- 15.4 Board.** The Board of Directors of the Association.
- 15.5 Common Areas.** Those portions of the Subject Property which are conveyed to the Association or otherwise defined or designated as Common Areas pursuant to the Covenants or any notation of any record map or plat of the Subject Property.
- 15.6 Covenants.** The Covenants of Protective Covenants of Hidden Creek which shall be recorded in the Office of the Judge of Probate, Shelby County, Alabama as the same may from time to time be supplemented or amended in the manner described herein.
- 15.7 Deed.** Any deed, court decree or other instrument conveying fee title into any part of the property subjected to the Covenants.
- 15.8 Garden Home.** Any free-standing housing unit without common walls or adjoining roof line with any other housing unit
- 15.9 Hidden Creek or Hidden Creek Property.** The name of the Subject Property.
- 15.10 Management Company.** A professional company contracted to handle the affairs of the Association as indicated in the contract with them.
- 15.11 Member in good standing.** A Property Owner. Who has no outstanding assessments or fines.
- 15.12 Property.** Any Property, lot, part or Property of the Subject Property designed for a residence and platted for record, regardless of whether a dwelling has or has not been constructed thereon.
- 15.13 Property Owner.** The owner or owners of record title to any Property.
- 15.14 Resident.** Any person or person [s] occupying a Property.
- 15.15 Subject Property.** The property subjected to the Covenants, including both the property, more particularly, described as "Hidden Creek, Town homes Sector I", as described in the Covenants, and any other real property which may be subjected to the Covenants by separate instrument executed by Developer.
- 15.16 Town Home.** Any housing unit sharing at least One 91) wall in common with any other housing unit or having a common roof line joined to any other housing unit.

ARTICLE XVI
AMENDMENTS

16.1. Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors or by one-third or more in number of the members or by instrument in writing signed by them.

16.2 Upon any such amendment being proposed, a meeting for consideration of the same shall be duly called in accordance with the provisions of the Association By-Laws.

16.3 These By-Laws may be amended by the Association at any regular annual meeting or a special meeting called for such purpose, by an affirmative vote of the majority. A majority shall consist of more than fifty percent (50%) of those present and qualified to vote in person or by proxy.

16.4 A copy of each amendment to the By-Laws shall be furnished to every member of the Association after adoption; provided, however, that any amendment to these By-Laws that is adopted in accordance with this Article shall be binding upon all persons who have an interest in the Property irrespective of whether such persons actually receive a copy of the amendment. These By-Laws may be amended in any respect upon recommended of the Board and subsequent approval at a regular meeting or special meeting of Members by an affirmative vote of the majority. A majority shall consist of more than fifty percent (50%) of those present and qualified to vote in person or by proxy. However, those provisions of these By-Laws which are governed by the Articles of Incorporation may not be amended except as provided therein or except as provided by applicable law; and provided further, that any matter stated herein to be or which is in fact governed by the Covenants may not be amended except as provided in the Covenants.

ARTICLE XVII
CONFLICTS

In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control, and in the case of any conflict between the Covenants and these By-Laws, the Covenants shall Control.

ARTICLE XVIII
COMPLIANCE

The Association of Property Owners and all present or future Property Owners, tenants, future tenants, or any other persons acquiring an interest in or using the facilities of the Property in any manner are subject to and shall comply with the Act and mere acquisition, occupancy or rental of any Property or an interest therein or the utilization of or entry upon the Property Premises shall signify that these By-Laws are accepted and ratified. In the event these By-Laws conflict with the provisions of the Alabama Property Act, the Act shall govern.

IN WITNESS WHEREOF, Hidden Creek Residential Association, who is authorized to execute this instrument, has hereunto set its signature on the day and year first above written.

Hidden Creek Residential Association

Jesse L. Stubbs
It's Secretary
Harry H. H. H.
Witness

Lorraine D. Kuhl
It's President
Margaret J. Asberry
Witness

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Lorraine D. Kuhl, whose name as President of Hidden Creek Residential Association, is signed to the foregoing instrument, and who is known to me, acknowledge before me on this day that being informed of the contents of the instrument, he as such officer and with full authority, executed the sale voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this the 17th day of February, 2007.

Jennifer D. Green
Notary Public
JUNE 7, 2010

My Commission expires: