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**ARTICLES OF INCORPORATION  
OF  
THE COTTAGES OF DANBERRY OWNERS' ASSOCIATION, INC.**

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This instrument prepared by:  
Stephen R. Monk, Esq.  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
(205) 521-8429

**ARTICLES OF INCORPORATION  
OF  
THE COTTAGES OF DANBERRY OWNERS' ASSOCIATION, INC.**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Law (*Ala. Code* (1975), Sections 10A-3A-1.01, *et seq.*)(the "Act") hereby adopts the following Articles of Incorporation and certify as follows:

1. **NAME.** The name of the corporation is "The Cottages of Danberry Owners' Association, Inc." (the "Association").

2. **TYPE OF ENTITY.** The Association is being formed as an Alabama nonprofit corporation pursuant to the Act.

3. **DURATION.** The period of duration of the Association shall be perpetual.

4. **PURPOSES AND POWERS.** The purposes for which the Association is organized is for any lawful purpose or purposes and the powers of the Association are as follows:

(a) To provide for the efficient preservation of the appearance, value and amenities of the property which is subject to The Cottages of Danberry First Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Declaration") recorded or to be recorded in the Office of the Judge of Probate of Shelby County, Alabama. *Capitalized terms not otherwise specifically defined herein shall have the same meanings given to them in the Declaration.*

(b) To own, operate, maintain, manage, repair and replace Common Areas and undertake and provide the Association Obligations.


(c) To perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, these Articles of Incorporation, the Bylaws of this Association and all amendments thereto, including, specifically, taking any action authorized or allowed to be taken by the Association in the Declaration, these Articles of Incorporation and the Bylaws.

(d) To own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, of every kind, character and description.

(e) To enforce all of the terms and provisions of the Declaration and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Cottage Home Property.

(f) To make, levy, collect and enforce Assessments, as defined in the Declaration, and to use and expend such Assessments in the manner set forth in the Declaration.

(g) To employ personnel and contract for services, material and labor, including contracting for the management of the Common Areas of the Cottage Home Property.

  
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(h) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates and with such deductibles as may be necessary for the protection of the Association, its officers, directors and Members or as may be otherwise required in the Declaration.

(i) To enforce any of the provisions of the Declaration by legal and equitable actions as may from time to time be necessary.

(j) To enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.

(k) To operate without profit for the sole and exclusive benefit of its Members; provided, however, that the Association may, at any time and from time to time, authorize and grant to persons who are not Members rights to use and enjoy the Common Areas on such terms and conditions as the Board of Directors of the Association may, in its sole and absolute discretion, determine.

(l) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Act, as amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with and subject to the terms and provisions of the Declaration.

**THIS ASSOCIATION DOES NOT CONTEMPLATE PECUNIARY GAIN OR PROFIT FOR THE MEMBERS THEREOF AND THE FUNDS OF THE ASSOCIATION, WHETHER RECEIVED BY GIFT OR OTHERWISE, REGARDLESS OF THE SOURCE THEREOF, SHALL BE EXCLUSIVELY USED IN THE PROMOTION OF THE BUSINESS OF THE ASSOCIATION, AS THE BOARD OF DIRECTORS MAY FROM TIME TO TIME DETERMINE.**

5. **INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Sheila D. Ellis  
1070 Danberry Lane  
Hoover, AL 35242

6. **NONSTOCK AND NONPROFIT STATUS.** The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the Members thereof. No part of the earnings of the Association shall inure to the benefit of any Member, individual, officer, or director. The Association does not contemplate the distribution of gains, profits or dividends to the members thereof and is organized solely for nonprofit purposes.

7. **MEMBERS AND VOTING RIGHTS.**

(a) **Members.** The members of the Association shall consist of all Owners. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. As used in these Articles of Incorporation, the term "Member" shall mean any Owner, as defined in the Declaration. Notwithstanding anything provided herein or in the Bylaws of the Association to the contrary, until the Turnover Date, (i) Cottage Home Developer shall have the sole and exclusive right to exercise all voting rights in the Association (except as provided to the contrary in Paragraph 7(b) below)



and (ii) Cottage Home Developer shall have the sole and exclusive right to appoint and remove all members of the Board of Directors of the Association.

(b) **Reservation of All Voting Rights By Cottage Home Developer Until Turnover Date.** Until the occurrence of the Turnover Date, Cottage Home Developer shall have the sole and exclusive right to exercise all voting rights in the Association; provided, however, that with respect to (i) any Special Assessments to be made pursuant to Section 8.04 of the Declaration which would require the consent and approval of a specified percentage in interest of the Members, then Cottage Home Developer shall submit such Special Assessment to the Members for approval (in accordance with the voting requirements set forth in the Bylaws) and (ii) amendments to the Declaration which, pursuant to Section 10.02 of the Declaration, require the consent or approval of a specified percentage in interest of the Members, then Cottage Home Developer shall submit such amendment to the Owners for approval (in accordance with the voting requirements set forth in the Bylaws). From and after the Turnover Date, the Members shall thereafter have the exclusive right to all voting rights in the Association previously held and exercised by Cottage Home Developer pursuant to this Paragraph 7(b).

(c) **Voting Rights of Members.** Subject to the rights reserved by Cottage Home Developer pursuant to Paragraphs 7(a) and 7(b) above, the voting rights of the Members are set forth in the Bylaws. The voting rights of any Member who has violated the Declaration or who is in default in the payment of Assessments (as defined in the Declaration) may be limited and suspended in accordance with the provisions of the Declaration, the Bylaws or any rules and regulations adopted by the Board of Directors of the Association. Cottage Home Developer shall be entitled to exercise all voting rights attributable to any Lots or Dwellings owned by Cottage Home Developer.


## 8. **DIRECTORS.**

(a) **Number of Directors.** The affairs of the Association shall be managed by a Board of Directors (each member of which is hereinafter sometimes referred to individually as a “Director” and collectively as the “Directors” or the “Board of Directors”). Prior to the Turnover Date, the number of Directors constituting the Board of Directors shall be three (3); thereafter, the number of Directors constituting the Board of Directors shall be a minimum of three (3). Cottage Home Developer shall have the sole and exclusive right to appoint and remove all members of the Board of Directors for the period of time and in the manner described in Paragraph 8(b) below. Prior to the Turnover Date, those Directors appointed by Cottage Home Developer need not be Members, Owners or residents of the State of Alabama. From and after the Turnover Date, Directors must be Members or Occupants (or the spouses of Members or Occupants) who are in good standing at the time of their election. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 8(b) of these Articles are as follows:

John D. Gunderson  
1070 Danberry Lane  
Hoover, AL 35242

Sheila D. Ellis  
1070 Danberry Lane  
Hoover, AL 35242

Jeff Boyd  
1070 Danberry Lane  
Hoover, AL 35242

  
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(b) **Election and Removal of Directors.** The members of the Board of Directors of the Association shall be elected and may be removed as follows:

(i) Until the occurrence of the Turnover Date, Cottage Home Developer shall have the sole and exclusive right to appoint and remove all members of the Board of Directors; and


(ii) From and after the Turnover Date, the Members of the Association shall be entitled to elect or remove any of the members of the Board in accordance with the terms and provisions of the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors.

(d) **Conflicts of Interest.** No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association or entity of which any Director of the Association is a director or officer or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any Director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

9. **INCORPORATOR.** The name and address of the sole incorporator is as follows:

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1070 Danberry Lane  
Hoover, AL 35242

  
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10. **DISTRIBUTION OF ASSETS UPON DISSOLUTION.**

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration by Cottage Home Developer shall be returned to Cottage Home Developer, unless it refuses to accept the conveyance (in whole or in part); and

(ii) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the Members of the Association, as tenants in common, with each Member's share of the assets to be



determined in accordance with their respective voting rights, as set forth in Paragraph 7 above.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Act.

11. **POWER OF PRESIDENT AND VICE PRESIDENT TO EXECUTE DOCUMENTS.** The President and Vice President of the Association shall each have authority to execute all instruments, documents and contracts on behalf of the Association.

12. **INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.**

In amplification and not in limitation of the provisions of applicable law:

(a) Pursuant to § 10A-20-16.01 *et seq.* and § 6-5-336 of the *Code of Alabama*, 1975, as amended, all non-compensated directors, officers and other volunteers of the Association shall be immune from suit and shall not be subject to civil liability arising from the conduct of the affairs of the Association except when the act or omission of such person that gives rise to the cause of action amounts to willful or wanton misconduct or fraud or gross negligence.

(b) The Association shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that such Person is or was a director or officer of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such Person in connection with such claim, action, suit or proceeding, unless such Person acted intentionally or willfully against the best interests of the Association. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the Person acted intentionally or willfully in a manner that was opposed to the best interests of the Association.

(c) The Association shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that such Person is or was a director or officer of the Association against expenses (including attorneys' fees) actually and reasonably incurred by such Person in connection with the defense or settlement of such action or suit if such Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interest of the Association, and except that no indemnification shall be made with respect to any claim, issue or matter as to which such Person shall have been adjudged to be liable for intentional or willful misconduct in the performance of such Person's duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(d) Any indemnification under Paragraphs 12(b) and 12(c) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of such Person is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Paragraphs 12(b) and 12(c) above. Such determination shall be made (i) by the Board of Directors of the Association by a majority vote of the directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (ii) if a majority of disinterested directors so directs, by independent legal counsel.



(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding upon receipt of an undertaking by or on behalf of the Person to repay such amount if and to the extent that it shall ultimately be determined that such Person is not entitled to be indemnified by the Association as authorized in this Paragraph 12. Such undertaking shall be an unlimited, unsecured general obligation of such Person and shall be accepted without reference to such Person's ability to make repayment.

(f) The indemnification authorized by this Paragraph 12 shall not be deemed exclusive of and shall be in addition to any other rights to which those indemnified may be entitled under any statute, rule of law, provision of these Articles of Incorporation, the Bylaws, agreement, vote of disinterested Directors or otherwise, both as to action in such Person's official capacity and as to action in another capacity while holding such office, and shall continue as to a Person who has ceased to be a Director, officer employee or agent of the Association (including any Person designated by the Board of Directors to serve on the ARC or as any other committee member on an any committee established by the Board of Directors) and shall inure to the benefit of the heirs, executors and administrators of such Person. No amendment, modification, or repeal of this Paragraph 12 shall diminish the right to indemnification with respect to any claim, cause, or matter in any then pending or subsequent proceeding that is based in any material respect on any alleged action or failure to act prior to such amendment, modification or repeal.

(g) The Association shall purchase and maintain insurance on behalf of any Person who is or was a Director, officer, employee or agent of the Association (including any Person designated by the Board of Directors to serve on the ARC or as a committee member on any committee established by the Board of Directors) or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such Person and incurred by such Person in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify such Person against such liability under the provisions of this Paragraph 12.

(h) There shall be no personal or individual liability of any Director or officer for any debts, liabilities or obligations of the Association of any kind whatsoever.

13. **AMENDMENT.** At any time prior to the Turnover Date, these Articles of Incorporation may be amended at any time and from time to time only by Cottage Home Developer, without the consent and approval of any of the Members of the Association. From and after the Turnover Date, these Articles of Incorporation may be amended at any time and from time to time by the affirmative vote of both (a) a majority of the members of the Board of Directors and (b) at least eighty percent (80%) of all of the Members of the Association entitled to vote who are voting in person or by proxy either (i) at a duly convened meeting of the Members held pursuant to the terms and provisions of the Bylaws or (ii) in a ballot vote held pursuant to the provisions of Section 2.09 of the Bylaws. Notwithstanding anything provided in this Paragraph 13 to the contrary, any amendments to Paragraphs 7, 8, 12 and 13 of the Articles of Incorporation must also be approved by Cottage Home Developer for so long as Cottage Home Developer has any voting rights in the Association.

14. **INCORPORATION BY REFERENCE.** All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth in these Articles of Incorporation and the Declaration, then the provisions of the Declaration shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto subscribed his name to these Articles of Incorporation as of the 25<sup>th</sup> day of February, 2014.

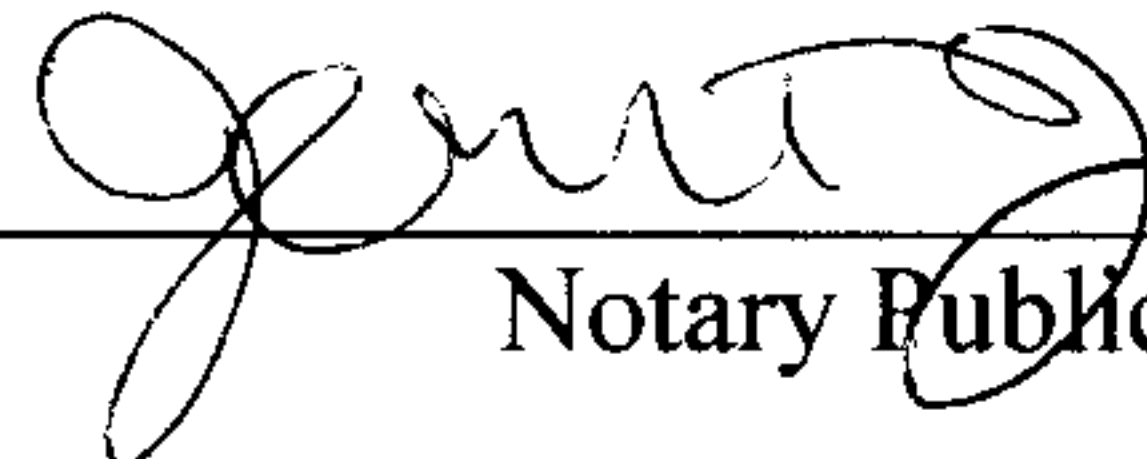


Sheila D. Ellis

STATE OF ALABAMA                     )  
   :  
COUNTY OF JEFFERSON             )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Sheila D. Ellis, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 25<sup>th</sup> day of February, 2014.

  
Notary Public

[NOTARIAL SEAL]

My commission expires: August 26, 2017



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Jim Bennett  
Secretary of State

P.O. Box 5616  
Montgomery, AL 36103-5616

# STATE OF ALABAMA

**I, Jim Bennett, Secretary of State of Alabama, having custody of the  
Great and Principal Seal of said State, do hereby certify that**

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama  
1975, and upon an examination of the entity records on file in this office, the  
following entity name is reserved as available:

**The Cottages of Danberry Owners' Association, Inc.**

This name reservation is for the exclusive use of Bradley Arant Boult Cummings  
LLP, 1819 Fifth Avenue North, Birmingham, AL 35203 for a period of one year  
beginning February 10, 2014 and expiring February 10, 2015

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**In Testimony Whereof, I have hereunto set my  
hand and affixed the Great Seal of the State, at the  
Capitol, in the city of Montgomery, on this day.**

February 10, 2014

Date

A handwritten signature in black ink, appearing to read "Jim Bennett", is written over a horizontal line.

Jim Bennett

Secretary of State