
**DECLARATION
OF
PROTECTIVE COVENANTS
OF
THE CEDARS**

This instrument prepared by:

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Inst # 1999-29516

**07/14/1999-29516
03:12 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
046 CRH 121.00**

STATE OF ALABAMA

SHELBY COUNTY

**DECLARATION OF PROTECTIVE COVENANTS
FOR
THE CEDARS, A RESIDENTIAL SUBDIVISION**

THIS DECLARATION OF PROTECTIVE COVENANTS FOR THE CEDARS, A RESIDENTIAL SUBDIVISION ("Declaration") is made as of this 14 day of July, 1999, by Hickory Construction Company, Inc., an Alabama corporation ("Hickory") and Homes and Land, Inc., an Alabama corporation ("H and L") (collectively "Declarant").

Hickory is the owner of certain property in Shelby County, Alabama, more particularly described on the attached Exhibit A, ("Hickory Property"). H and L is the owner of certain property in Shelby County, Alabama, more particularly described on the attached Exhibit B ("H and L Property") or (collectively the "Property" or "The Cedars").

The Hickory Property and the H and L Property are contiguous. The only access available to the H and L Property is through the streets to be developed on the Hickory Property. Accordingly, although Hickory and H and L will each develop and market their properties independently of the other, Hickory and H and L have agreed to develop, improve and sell their properties in accordance with a common plan and to jointly enter into this Declaration as Declarant.

Declarant desires to subject the Property to certain protective covenants in order to protect the value and desirability of the Property and to establish a flexible and reasonable method for the development, administration, and maintenance of the Property.

NOW, THEREFORE, Declarant does hereby declare that the Property shall hereafter be subject to the following restrictions, conditions, exceptions, liens and protective covenants, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title, or interest in any portion of the Property, and their respective heirs, executors, administrators, personal representatives, successors and assigns.

ARTICLE 1

DEFINITIONS

- 1.1 **Articles of Incorporation:** The duly enacted Articles of Incorporation of the Association.
- 1.2 **Association:** The Cedars Homeowners Association, Inc., its successors and assigns.

- 1.3 **Board:** The Board of Directors of the Association.
- 1.4 **By-Laws:** The duly enacted By-Laws of the Association.
- 1.5 **Common Areas:** Any portion of the Property which is conveyed to the Association or otherwise defined or designated as Common Areas pursuant to Article IV of this Declaration, or by notation on any record map or plat of the Property.
- 1.6 **Declaration:** This DECLARATION OF PROTECTIVE COVENANTS FOR THE CEDARS, A RESIDENTIAL SUBDIVISION, which shall be recorded in the Probate Records of Shelby County, Alabama, as may be supplemented or amended.
- 1.7 **Declarant:** Hickory Construction Company, Inc. and any successor thereof and any purchaser from Hickory Construction Company, Inc. of any portion of the Hickory Property to whom Hickory Construction Company, Inc. also conveys and assigns its rights hereunder as Declarant; H and L and any successor thereof, and any purchaser from H and L of any portion of the H and L Property to whom H and L also conveys and assigns its rights hereunder as Declarant. Whenever any rights and powers are specifically reserved or granted in this Declaration to Declarant, same may be exercised by Hickory, and same may not be exercised without the written consent of Hickory.
- 1.8 **Entranceway Improvements:** Those certain improvements to be made with respect to any entranceway into the Property from Cahaba Valley Road, which improvements may be located partially on that portion of the Property platted as Lots 1, 2, 3, 4, 5, and 49 according to the plat of The Cedars, as recorded in Plat Book 25, Page 134 in the Office of the Judge of Probate of Shelby County, Alabama, and partially in the rights-of-way of Cahaba Valley Road and the rights-of-way within the Property and which shall include entrance walls, monument signs, landscaping, lighting and a water sprinkler system.
- 1.9 **Improvement:** Any object constructed, erected, placed, or maintained on the Property or any amelioration or alteration in the condition of any existing improvements on the Property, amounting to more than minimal repair and upkeep. Examples of Improvements include: buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs, satellite dishes, antennae, weather vanes, coats of paint, siding, and roofing materials.
- 1.10 **Interior Improvements:** Those certain improvements to be made with respect to any interior street or common area of the Property, including a lighting system consisting of electric streetlights placed at intervals along Katy Circle and Emily Circle and on other designated streets.
- 1.11 **Member:** A person or other entity who is a record owner of fee simple title to any portion of the Property.

- 1.12 **Parcel:** Any lot on a subdivision plat of the Property recorded in the Probate Office that has been designated for a residence, regardless of whether a residence has actually been constructed on such lot.
- 1.13 **Parcel Owner:** The owner(s) of record title to any Parcel.
- 1.14 **Resident:** Any person(s) occupying a Parcel.
- 1.15 **Property:** The Hickory Property and the H and L Property, as described on Exhibit A and Exhibit B, along with any other property which may be subjected to this Declaration by separate instrument executed by both Hickory and H and L.

ARTICLE 2

ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

- 2.1 **Architectural Committee:** There shall be an architectural committee composed of three individuals designated and redesignated from time to time by the Board of Directors of the Association ("Architectural Committee"). Provided, until such time as Declarant no longer owns or has the right to acquire any portion of the Property, the Architectural Committee shall be composed of three individuals to be designated by Hickory, and Hickory may remove and replace any such member at any time, in its discretion. The Architectural Committee may designate, in writing, one of its members or any other person as its representative for the functions to be carried out by the Architectural Committee pursuant to this Declaration. Any action taken by such representative in the name of the Architectural Committee shall be binding upon the Architectural Committee until such time as said representative is removed in writing, either by the Architectural Committee or Hickory.
- 2.2 **Approval Required:** NO PARCEL OWNER SHALL MAKE ANY IMPROVEMENTS WITHOUT PRIOR WRITTEN APPROVAL OF THE ARCHITECTURAL COMMITTEE.
- 2.3 **Application for Approval:**
- A. A Parcel Owner seeking to make Improvements must submit an application for approval to the Architectural Committee which shall include the following: plans and specifications for any such Improvements showing such detail and information as the Architectural Committee might require, which may include, but which shall not be limited to, all exterior materials and colors, and including, when applicable, all exterior elevations, schedule of proposed materials, landscaping, irrigation and drainage plans. Any builder or contractor selected to make any Improvements must be approved by the Architectural Committee.

THE SCOPE OF REVIEW BY THE ARCHITECTURAL COMMITTEE IS LIMITED TO APPEARANCE ONLY AND DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH

BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS.

B. If the Architectural Committee fails to approve of any Improvements or shall approve any Improvements only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a written statement of the grounds upon which such action is based. In any such event, the Architectural Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval. Upon approval by the Architectural Committee of any Improvements, a copy of the plans and specifications of the Improvements, as approved, shall be deposited for permanent record with the Architectural Committee.

C. If the Architectural Committee fails either to approve or to disapprove any Improvements within thirty (30) business days after the plans and specifications for the Improvements have been submitted in writing to it, or fails to include in any disapproval the statement required in subparagraph (B) above, it shall be conclusively presumed that the Architectural Committee has approved the Improvements, subject, however, to the covenants contained herein.

D. In considering applications for approval of Improvements, the Architectural Committee shall be entitled to the use of its absolute discretion.

2.4 Inspection Rights: Any agent of the Declarant, the Association or the Architectural Committee may at any reasonable time enter upon and inspect any Parcel and any Improvements to ascertain whether the maintenance of such Parcel and any Improvements are in compliance with the provisions of this Declaration; and neither Declarant, nor the Association, nor the Architectural Committee, nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. Any such inspection shall be for the sole purpose of determining compliance with this Declaration, and neither the making of any such inspection, nor the failure to make any such inspection, shall be relied upon by a Parcel Owner or any third persons or entities for any purpose whatsoever; nor shall any such inspection obligate the Declarant, the Association or the Architectural Committee to take any particular action based on the inspection.

2.5 Limitation of Liability. Notwithstanding anything in this Declaration to the contrary, neither the Architectural Committee, the Association, Declarant, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Parcel Owner on account of (a) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article 2, (b) any defects, structural or otherwise, in any work done according to such plans and specifications, (c) the failure to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Parcel Owner for approval pursuant to the provisions of this Article 2, (d) the construction or performance of any work related to such plans, drawings and specifications, (e) bodily injuries (including death) to any Parcel Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Parcel Owner or Resident, or any damage to any Improvements or the personal property

of any Parcel Owner, Resident or their respective family members, guests, employees, servants, agents, invitees or licensees, which may be caused by, or arise as a result of, (i) any defect, structural or otherwise, in any Improvements or the plans and specifications therefore, or (ii) any past, present or future soil and/or subsurface conditions, known or unknown (including, without limitation, sinkholes, underground mines, tunnels and water channels and limestone formations on or under any portion of the Property) and (f) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Parcel or any Improvements situated thereon.

- 2.6 Delegation by Architectural Committee: The rights, duties and functions of the Architectural Committee may be delegated to the Association at any time by the written consent and declaration of all three of the members of the Architectural Committee. Upon such delegation, the rights, duties and functions of the Architectural Committee shall become those of, and shall be enforceable by, the Association. The Association may designate, by proper written resolution, one of the members of the Board to perform said functions.

ARTICLE 3

GENERAL RESTRICTIONS

- 3.1 Permitted Uses: ONLY RESIDENTIAL USE IS PERMITTED ON THE PROPERTY SUBJECT, HOWEVER, TO THE FOLLOWING EXCEPTION: The Declarant may maintain a temporary sales office and model unit and may conduct any activities that are customary and appropriate to the marketing, sale, and improvement of any portion of the Property.
- 3.2 Proscribed Uses:
- A. No use shall be permitted within any Parcel which produces any of the following effects discernible within any other portion of the Property except during the period of construction of improvements thereon:
1. Noise or sound that is unusual and inappropriate for the development proposed and to be constructed upon the Property and is objectionable because of its volume, duration, intermittent beat, frequency or shrillness;
 2. Noxious, toxic, or corrosive fumes or gases;
 3. Obnoxious odors;
 4. Dust, dirt or fly ash; or
 5. Unusual fire or explosive hazards.
- B. No animals may be kept or maintained on the Property except that (a) domestic pets may be kept within the residential dwelling upon a Parcel and (b) no more than a total of two (2)

dogs and cats shall be permitted to be kept within the confines of the residential dwelling on the Parcel or within a fully fenced rear yard, provided that the following restrictions with respect to the maintenance of such pets are fully complied with at all times:

1. No animals of any kind may be kept, bred, raised, or maintained in any manner on any portion of the Property for commercial purposes;
2. No pets shall be permitted to be kept on any Parcel which make loud noises or which in any other manner interfere with the quiet and peaceful enjoyment of the other Parcels by the owners or occupants thereof;
3. No such pets shall be allowed to enter upon any other Parcel within the Property;
4. When any such pets are outside of the dwelling located on the Parcel and not confined within the fenced rear yard of the Parcel, such pets must be on a walking chain or within a cage and must be accompanied by an owner or occupant of the Parcel;
5. The maintenance of any such pets upon any Parcel shall also be further subject to such additional rules, restrictions and regulations as might be promulgated by the Association from time to time.

C. No fencing shall be constructed or altered on any Parcel until the location, materials, plans, specifications and color thereof have been approved by the Architectural Committee.

D. No trash, debris, clothes lines, construction materials or other unsightly materials shall be permitted or maintained on any Parcel.

- 3.3 Keep Parcel in Repair; Liens: Except as provided in Section 5.3, each Parcel Owner shall keep all Parcels owned by him, and all improvements therein, thereon or appurtenant thereto, in good order and repair, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. If, in the opinion of the Association any Parcel Owner fails to perform the duties imposed by the preceding sentence after thirty (30) days' written notice from the Association to the Parcel Owner to remedy the condition in question, the Association shall have the right, through its agents and employees, to enter upon the Parcel in question (or upon the improvements which may be appurtenant thereto) and to repair, maintain, repaint and restore the Parcel or such improvements and the cost thereof shall be a binding, personal obligation of such Parcel Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question; provided however, that after control of the Association has been given to the Class A members of the Association, the approval of 51% of the votes of Class A members of the Association will be required to continue to remedy a violation on a specific Parcel as provided above if the aggregate cost charged hereunder against the Parcel Owner exceeds \$500 per calendar year, as may be adjusted upward annually in an amount not to exceed fifteen percent (15%) of the

maximum amount which could have been charged the preceding year. Any landscaping approved by the Architectural Committee cannot be changed pursuant to this Section 3.5.

- 3.4 **Priority of Lien:** The lien provided in Section 3.3 hereof shall not be valid as against a bona fide Purchaser (or bona fide mortgagee) of the Parcel in question unless a notice of said lien shall have been recorded in the Office of the Judge of Probate of Shelby County, Alabama, prior to the recordation in said office of the deed (or mortgage) conveying the Parcel in question to such purchaser (or subjecting the same to such mortgage).
- 3.5 **Signs:** No commercial signs, including "for rent", "for sale", political advertisements and other similar signs, shall be erected or maintained on any Parcel except with the written permission of the Declarant. If such permission is granted, the Declarant reserves the right to restrict size, color and content of such signs. One "for sale" or "for rent" sign not in excess of four square feet in size shall be permissible with respect to the size of the sign. The other characteristics of the signs shall be subject to the approval of Declarant as above provided. Property identification and like signs may not be erected without the written permission of the Declarant.
- 3.6 **Subdivided Parcels:** No Parcel shall be subdivided, or its boundary lines changed, except with the written consent of Declarant and the Architectural Committee. However, the Declarant hereby expressly reserves to itself, its successors or assigns, the right, without the approval of the Architectural Committee, (i) to combine or rearrange the boundaries between any two (2) or more Parcels shown on the plat of any subdivision in order to create a modified building Parcel or Parcels; and (ii) to subdivide any Parcel shown on the plat of any subdivision. Declarant may take such other steps as are reasonably necessary to make such replatted or subdivided Parcels suitable and fit as a building site, including, but not limited to, the relocation of easements, walkways and rights of way to conform to the new boundaries of the said replatted Parcels.
- 3.7 **Trailers, Boats and Commercial Trucks:** Unless approved by Declarant, in writing, no trailers, boats, commercial trucks or other commercial vehicles, travel trailers or the like shall be stored, parked or permitted to remain within the right-of-way of any street within the Property or on any Parcel except in a garage or carport, or except during periods of approved construction on a Parcel. The prohibitions in this Section 3.7 shall not apply to temporary parking of trucks and other commercial vehicles for the providing of commercial services to the Parcel or to the efforts and activities of the Declarant in connection with the improvement and development of the Property.
- 3.8 **Parking Restrictions:** The parking of automobiles or other such vehicles shall not be permitted within the right-of-way of any street within the Property except during such times as the number of guests or visitors of the occupants of the Parcel are such that the parking areas created on the Parcel are not of sufficient size to accommodate the automobiles of the guests or visitors. During such occasions, such automobiles or other vehicles shall not in any manner block the flow of traffic or block access to driveways serving any of the other Parcels.

- 3.9 **Mailboxes:** A mailbox of a standard design and quality shall be maintained by the owner of each Parcel. No mailbox shall vary from the standard design without the written permission of the Association.
- 3.10 **Garage Doors:** All garage doors shall be maintained in a good and operable condition and shall remain closed at all times except when entering or exiting the garage.

ARTICLE 4

SPECIAL RESTRICTIONS AFFECTING COMMON AREAS

- 4.1 **Purpose:** It shall be the intent and purpose of these restrictions and covenants to make provision for and designate, within the Property, Common Areas to be conveyed to or otherwise made available to the Association for use by the Parcel Owners.
- 4.2 **Natural Areas:** Certain parts of the Common Area may be designated by the Declarant or the Association, either by notation on a recorded plat or by recorded restrictions, as natural areas. No building, tent, trailer or other structure, either temporary or permanent, may be erected or caused to be placed in any such natural area, except as specifically approved by the Declarant or the Association.
- 4.3 **IMPROVEMENT OF COMMON AREAS:** DECLARANT SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO IMPROVE THE COMMON AREA OR ANY PORTION THEREOF WITH SUCH AMENITIES AS DECLARANT IN ITS SOLE DISCRETION, MIGHT DEEM APPROPRIATE. DECLARANT HAS NO PRESENT PLAN TO MAKE ANY SUCH IMPROVEMENTS AND NO REPRESENTATION IS HEREBY MADE THAT SUCH WILL OR WILL NOT BE MADE.
- 4.4 **Use of Common Area:** The Declarant expressly reserves to itself, its successors and assigns, including Parcel Owners, every reasonable use and enjoyment of said Common Areas in a manner not inconsistent with the provisions of this Declaration and subject to such limitations and rules and regulations as might be promulgated by the Association.
- 4.5 **Common Areas and Facilities; Conveyance to Association:** The Association shall have the right to maintain or help maintain the Common Areas and facilities within the Property which serve the Parcel Owners, including, but not limited to, Entranceway Improvements, landscaping, natural areas, and like areas available to all Parcel Owners, if any, regardless of whether such Common Areas and facilities are owned by the Declarant, or have been conveyed to the Association as Common Areas. Declarant shall have the right, but not the obligation, at such time or times as may be determined by Declarant, in its sole discretion, to convey to the Association as Common Areas all or some of any Entranceway Improvements, landscaping, natural areas, and other facilities and Common Areas located within the Property.
- 4.6 **Entranceway Improvements and Cahaba Valley Road and the Property Rights-of-Way:** The Entranceway Improvements, and those portions of the rights-of-way of Cahaba Valley Road

and within the Property which have been landscaped in connection with the installation of the Entranceway Improvements shall be kept and maintained, by and at the expense of the Association, as a part of the Common Area, in the manner originally constructed or installed, and same are hereby declared to be a part of the Common Area. In no event shall any portion of the Entranceway Improvements which is situated on a particular Parcel be modified, removed or extended in scope without the prior written consent of the owners of the affected Parcel and the Association.

- 4.7 Tax Assessments: All ad valorem taxes assessed against any Common Area or other property owned by the Association shall not be paid by the Association; rather, the amount of such taxes shall be paid by the owners of each of the Parcels directly to the tax collector of Shelby County, Alabama, with the portion to be paid with respect to each Parcel being equal to the total amount of the taxes multiplied by the fraction, the numerator of which is one and the denominator of which is the total number of Parcels. By the acceptance of a deed to a Parcel, the owner or owners thereof shall be conclusively deemed to have agreed to the inclusion (together with the tax bill with respect to the Parcel) of the additional tax with respect to the Common Area computed in the manner described above. The tax assessor of Shelby County, Alabama and the tax collector of Shelby County, Alabama, or any other public officials to whom the duties and authorities of these officials might hereafter be delegated, are hereby authorized to assess the Parcels and bill the owners thereof the taxes to be paid with respect to the Common Area in accordance with the provisions of this Section 4.7.
- 4.8 Insurance: The Association shall not be obligated to maintain policies of insurance of any kind or with respect to any hazard, risk, peril or liability. It shall be the responsibility of the owner or owners of each Parcel to purchase such policies of insurance with respect to their interests and potential liabilities as they deem to be appropriate, including all interests and liabilities relative to the Parcel, the Common Area, and all improvements upon the Parcel. Notwithstanding the foregoing, the Association shall have the right and authority to purchase such policies of insurance with coverages as the Association, in its sole discretion, deems appropriate.

ARTICLE 5

THE CEDARS RESIDENTIAL ASSOCIATION, INC.

- 5.1 General: The structure of the Association is contained in its Articles of Incorporation and By-laws, which should be consulted for a full explanation of the rights and obligations appurtenant to membership in the Association.
- 5.2 All Parcel Owners Are Members of Association: Every owner of a Parcel located within the Property shall, by virtue of such ownership, be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Parcel which is within the Property.

- 5.3 Maintenance Fund; Assessments: In order to provide a fund to maintain, landscape and repair the Common Areas, streets (except those located within a privately owned Parcel), walkways, the items and areas described in Section 4.6 above, and like community areas, and in general provide those services important to the development and preservation of an attractive community appearance; in order to pay such taxes or assessments with respect to Common Area or other property of the Association which cannot be assessed directly against the Parcels; and, in order to provide additional funds for such purposes as may be deemed appropriate by the Board of the Association, the Association may each year assess against each Parcel owned by a Member of the Association an annual assessment (which shall be uniform for all Parcels) equal to a specified number of dollars per Parcel. Said assessment may be collected periodically in twelve even monthly installments, quarterly, in one advance annual installment, or in such other manner as the Association deems appropriate. Until such time as the Association determines to provide any of the services which it has the authority to provide as set forth in this instrument or incurs expenses for such other purposes as are authorized pursuant to this instrument or otherwise by applicable statutes, there shall be no Association assessments or dues against any Parcel. The Association shall not be obligated to provide any such services until the Association has determined to do so by an appropriate written resolution of the Board.
- 5.4 Lien: The assessments set forth in Section 5.3 hereof, together with interest thereon (at such rate as the Association might reasonably determine) and the costs of collection thereof (including reasonable attorney's fees) shall be a charge on and shall be a continuing lien (enforceable in the same manner as a mortgage, with power of sale) upon the Parcel against which each such fee, assessment or charge is made.
- 5.5 Subordination of Lien to Mortgages: The lien of any fee, assessment or charge on a Parcel, as authorized in this Article V, is hereby made subordinate to the lien of any bona fide mortgage on such Parcel if, but only if, all fees, assessments and charges levied against such Parcel falling due on or prior to the date such mortgage is recorded have been paid. The sale or transfer of any Parcel pursuant to a mortgage foreclosure proceeding or a proceeding in lieu of foreclosure or the sale or transfer of such Parcel pursuant to sale under power contained in a mortgage on such Parcel shall extinguish the lien for fees and 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 which shall be senior to the equity of redemption of the mortgagor. The foregoing subordination shall not relieve an owner whose Parcel has been mortgaged of his personal obligation to pay all fees, assessments and charges falling due during the time when he is the owner of such Parcel. In the event of the foreclosure of any mortgage on a Parcel or a sale in lieu of foreclosure, the purchaser shall accept the deed subject to this Declaration, and such purchaser shall be a Member of the Association and shall be responsible for payment of any fees, assessments or charges authorized by the Association; provided, however, that the Board, in its sole discretion, may at any time, either before or after the mortgaging of any Parcel, waive, relinquish or quitclaim in whole or in part the right of the Association to fees, assessments and other charges collectible by the Association with respect to such Parcel coming due during the period while such Parcel is or may be held by a mortgagee or mortgagees pursuant to such sale or transfer.

- 5.6 **Declarant's Exemption:** The Declarant and any Parcel or other portion of the Property owned by the Declarant shall be exempt from the payment or levy of any and all assessments by the Association, during such time as there are Class B members, as described in the Articles and Bylaws, or until the Declarant has conveyed all of its interest in the Property, whichever shall later occur, unless waived in writing by the Declarant.

ARTICLE 6

EASEMENTS

- 6.1 **Utility Easements:** Hickory reserves unto itself, its successors and assigns, with respect to the Hickory Property, and H and L reserves unto itself, its successors and assigns, with respect to the H and L Property, a perpetual, assignable and releasable easement and right on, over and under the ground to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over all Common Areas and such other areas as are shown and designated as easement areas on recorded plats; provided, that Hickory, with respect to the Hickory Property, and H and L with respect to the H and L Property, may cut drainways for surface water wherever and whenever such action may appear to Hickory or H and L, as the case may be, to be necessary in order to maintain reasonable standards of health, safety and appearance, but no such drainways may be constructed by either Declarant on a Parcel after a dwelling has been constructed on such Parcel. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and maintenance, and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensee of Declarant, but this reservation shall not be considered an obligation of either Declarant to provide or maintain any such utility or service. Provided, no utility lines or equipment shall be constructed, installed or maintained above ground unless approved in writing by Hickory or, after Hickory has conveyed all of the lots within the Hickory Property, the Association.
- 6.2 **Roads and Streets; Conveyance to Association:** The Association shall have the right to maintain or help maintain the roads and streets within the Property regardless of whether such roads and streets have been dedicated to the public, are owned by the Declarant, or have been conveyed to the Association. Declarant shall have the right to dedicate all or any of the roads and streets within the Property to the public. Declarant is under no duty or obligation, express or implied, to maintain the roads and streets within the Property. The Association shall have the right to maintain any and all public and private roads and streets within the Property, and subject to the provisions of Article V hereof, may charge fees or assessments as the Association deems appropriate for the proper maintenance thereof.

ARTICLE 7

GENERAL

- 7.1 **Grantee's Acceptance.** The grantee of any Parcel subject to this Declaration, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such Parcel, shall accept such deed or other contract upon and subject to each and all of these restrictions, liens, easements and provisions herein contained.
- 7.2 **Indemnity For Damages.** Each and every Parcel Owner and future Parcel Owner, in accepting a deed or contract for any Parcel subject to this Declaration, agrees to indemnify Declarant and the Association from and against (i) any damage caused by such Owner, or the contractor, agent, or employees of such Owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Declarant or the Association, or for which Declarant or the Association has responsibility, at the time of such damage, and (ii) any loss, damage, claim or liability that the Declarant or Association might suffer, including costs of defense and attorneys' fees, arising out of any breach or violation of the provisions of this Declaration.
- 7.3 **Severability.** Every one of the provisions and restrictions is hereby declared to be independent of, and severable from the rest of the provisions and restrictions and of and from every other one of the provisions and restrictions and of and from every combination of the provisions and restriction in this Declaration, and the invalidity of any one or more of the provisions hereof shall in no way affect any of the other provisions or restrictions which shall remain in full force and effect.
- 7.4 **Right of Declarant to Modify Restrictions With Respect to Unsold Parcels.** With respect to any Parcel owned by Declarant, Declarant may include in any contract or deed hereinafter made or entered into such modifications and/or additions to this Declaration as Declarant in its sole discretion desires, provided that same are approved by Hickory.
- 7.5 **Declarant's Right to Remove Portions of the Property:** Other provisions herein to the contrary notwithstanding, Declarant shall have the right, at any time, to remove from the provisions of this Declaration, the Articles and Bylaws, any portion or portions of the Property as Declarant might determine, in its sole discretion; provided, that, at the time of any such removal, any such portions of the Property are owned by Declarant, and that such removal is approved by Hickory in writing. Declarant shall have and does hereby reserve unto itself the power and authority to execute and effectuate, without the approval of any other persons or entities, amendments to this Declaration, the Articles and Bylaws as Declarant shall deem appropriate to amend the legal description of the Property and to carry out and enforce the rights reserved unto itself under this section, subject to written approval by Hickory. Any portions of the Property so removed by the Declarant shall no longer be affected or encumbered in any manner by the provisions of this Declaration, the Articles or the Bylaws.

- 7.6 No Development Scheme. The size, configuration, style, location and any other of the characteristics of any particular Parcels or improvements thereto shall not in any manner bind or restrict Declarant with respect to the characteristics of the development of any other portion of the Property. Subject to the prior written approval of Hickory, each Declarant shall have the right to redesign and relocate the roads, drives and entrances on the portion of the Property which it owns and to change the size, configuration, style, location and other characteristics of any lots or Parcels to be created within such portion of the Property in such manner as it deems appropriate, including, but not limited to, the right to increase or decrease the size of Parcels and improvements thereupon, and develop and construct residential buildings of such sizes and configurations as it might deem appropriate.
- 7.7 Captions. The captions preceding the various sections, paragraphs and subparagraphs of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.
- 7.8 Effect of Violation on Mortgage Lien. No violation of any provision of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' or foreclosure sale shall be bound by and subject to this Declaration as fully as any other owner of any portion of the Property.
- 7.9 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.
- 7.10 Duration and Amendment. The restrictions and provisions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by Declarant, the Association, the Architectural Committee, and any Parcel Owner, their respective legal representatives, heirs, successors and assigns until the 31st day of December in the year 2013, after which time said restrictions and provisions shall be automatically extended for successive periods of ten years. Except as provided elsewhere in this Declaration, this Declaration may not be amended in any respect (except with regard to the addition of other property) except by the execution of an instrument signed by not less than 75% of the Parcel Owners, which instrument shall be filed for recording in the Probate Office of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument. After December 31, 2013, this Declaration may be amended and/or terminated in its entirety by an instrument signed by not less than 55% of the Parcel Owners which instrument shall be filed for recording in the Probate Office of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument. Provided, other provisions herein to the contrary notwithstanding, (a) as long as Declarant owns any portion of the Property, Declarant may amend the provisions of this Declaration in such manner as Declarant, in its sole discretion, deems appropriate, (b) the rights of Declarant and the rights specifically herein given to the holders of any mortgages upon any Parcel may not be affected without their prior written consent, (c) the voting and membership rights of the owners of any Parcel may not be altered without the prior written consent of the owners of any Parcel so affected, and (d) until

Declarant has conveyed all of its interest in the Property, this Declaration may not be amended without the prior written consent of Declarant.

- 7.11 **Enforcement.** In the event of a violation or breach of any provision of this Declaration or any amendments thereto by any owner, resident, or employee, agent, or lessee of such owner or resident, the owner(s) of Parcel(s), the Association, Declarant, their successors and assigns, or any other party to whose benefit this Declaration inures shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions and provisions, to sue for and recover damages or other dues, or to take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity.

- 7.12 **Certificate of Violation.** In addition to any other rights or remedies available to the Association hereunder or at law or equity, the Association shall have the right to file in the Probate Office of Shelby County, Alabama a Certificate or Notice of Violation of this Declaration (which violation may include, without limitation, nonpayment of the fees, assessments or charges, or failure to comply with architectural guidelines) upon failure of a Parcel Owner to correct a violation of this Declaration within ten (10) days after written notice of the violation has been given by the Association to the Parcel Owner.
- 7.13 **Interpretation by Association.** The Association shall have the right to construe and interpret the provisions of this Declaration, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefitted or bound by the provisions hereof.
- 7.14 **Assignment by Association.** The Association shall be empowered to assign its rights hereunder and its properties to any successor nonprofit membership corporation (herein referred to as the "Successor Corporation") and, upon such assignment the Successor Corporation shall have all the rights and be subject to all the duties of the Association hereunder.
- 7.15 **No Waiver.** The failure of any party entitled to enforce any of the provisions of this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to Article II shall be binding on any and all parties as a conclusive determination that such plans are in conformity with this Declaration.

IN WITNESS WHEREOF, the undersigned has duly executed this Declaration as of the date first above written.

HICKORY CONSTRUCTION COMPANY, INC.

By: William A. Waldorf
Its: PRESIDENT

HOMES AND LAND, INC.

By: Sam W. Bennett
Its: SAM W. BENNETT
President

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that William G. Walling, whose name as President of Hickory Construction Company, Inc., an Alabama corporation, 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 29 day of June, 1999.

Henry G. Dasher
Notary Public

[NOTARIAL SEAL]

My commission expires: MY COMMISSION EXPIRES AUGUST 20, 1999

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that SAM W. BENNETT, whose name as President of Homes and Land, Inc., an Alabama corporation, 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 the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 10 day of June, 1999.

Kay H. Painter
Notary Public

[NOTARIAL SEAL]

My commission expires: 5-28-00

EXHIBIT A

(The "Hickory Property")

The plat of The Cedars, as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 25, page 134.

EXHIBIT B

(The "H and L Property")

The plat of Cedars Phase II as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 25, page 35.

**ARTICLES
OF
INCORPORATION
OF
THE CEDARS HOMEOWNERS ASSOCIATION, INC.
(a corporation not for profit)**

This instrument prepared by:

Charles A. J. Beavers, Jr.
BRADLEY, ARANT, ROSE & WHITE
1400 Park Place Tower
Birmingham, Alabama 35203

ARTICLES OF INCORPORATION
OF
THE CEDARS HOMEOWNERS ASSOCIATION, INC.
(a corporation not for profit)

This is to certify that, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Act, Section 10-3A-1, et seq. Code of Alabama (1975) the undersigned do hereby make and file the following Articles of Incorporation.

ARTICLE I

NAME

The name of the corporation shall be The Cedars Homeowners Association, Inc. The corporation is sometimes referred to herein as the "Corporation" or the "Association".

ARTICLE II

DEFINITIONS

2.1 The Cedars Covenants. Those certain restrictions and protective covenants on The Cedars Property previously filed for record in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 1999-29516

2.2 Association. The Cedars Homeowners Association, Inc., its successors and assigns.

2.3 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 the owner thereof.

2.4 Board. The Board of Directors of the Association.

2.5 Bylaws. The duly enacted Bylaws of the Association.

2.6 Common Areas. Those portions of the Property which are conveyed to the Association or otherwise defined or designated as Common Areas pursuant to Article IV of the Declaration or by notation on any record map or plat of the Property.

2.7 Declaration. The Declaration of Protective Covenants of The Cedars, a Residential Subdivision, recorded in the Office of the Judge of Probate of Shelby County, Alabama,

as Instrument Number 1999-29516, as the same may from time to time be supplemented or amended in the manner described herein.

2.8 Deed. Any deed, court decree or other instrument conveying fee title into any part of the property subjected to the Declaration.

2.9 Declarant. Hickory Construction Company, Inc. ("Hickory") and any successor thereof and any purchaser from Hickory Construction Company, Inc. of any portion of the Hickory Property to whom Hickory Construction Company, Inc. also conveys and assigns its rights hereunder as Declarant; Homes and Land, Inc., an Alabama corporation ("H and L") and any successor thereof, and any purchaser from H and L of any portion of the H and L Property (as defined in the Declaration) to whom H and L also conveys and assigns its rights hereunder as Declarant. Whenever any rights or powers are specifically reserved or granted in this instrument to Declarant, same may be exercised by Hickory and same may not be exercised without Hickory's written consent.

2.10 Entranceway Improvements. Those certain improvements to be made with respect to any entranceway into the Property from Cahaba Valley Road, which improvements may be located partially on that portion of the Property described as Lots 1, 2, 3, 4, 5, and 49 according to the plat of The Cedars, as recorded in Map Book 75, Page 134, in the Office of the Judge of Probate of Shelby County, Alabama, and partially in the rights-of-way of Cahaba Valley Road, and the rights-of-way within the Property and which shall include the entrance walls, monument signs, landscaping, lighting and water sprinkler system.

2.11 Member. A person or other entity who is a record owner of fee simple title to any portion of the Property.

2.12 Parcel. Any lot on a subdivision plat of the Property recorded in the Probate Office that has been designated for a residence, regardless of whether a residence has actually been constructed on such lot.

2.13 Parcel Owner. The owner(s) of record title to any Parcel.

2.14 Resident. Any person(s) occupying a Parcel.

2.15 The Cedars Property. The property described in the Declaration and other property which may be acquired by Declarant and developed as a part of The Cedars.

2.16 Property. The property subjected to the Declaration and described on Exhibit A and Exhibit B to the Declaration, along with any other real property which may be subjected to the Declaration by separate instrument executed by the Declarant.

ARTICLE III

PRINCIPAL OFFICE AND AGENT

The initial registered office of the Association shall be 3499 Independence Drive, Birmingham, Alabama 35209. The registered agent of the Association shall be Henry A. Drake.

ARTICLE IV

OBJECTS, PURPOSES AND POWERS

4.1 Not for Profit. This Association shall be a corporation not for profit organized for non-profitable purposes and activities and no part of its net earnings shall inure to the benefit of any private shareholder or member of the Association.

4.2 Objects and Purposes. The objects and purposes for which this Corporation is organized are as follows:

4.2.1 To establish, maintain, operate and provide such community services as the Association shall deem appropriate with respect to The Cedars and any other property which shall be made subject to the jurisdiction of the Association by the Declaration or any amendment thereof, supplemental declaration thereto, or other declaration, deed or instrument.

4.2.2 To own, acquire, build, operate, and maintain the "Common Areas"; maintain roadways and the water and drainage systems within The Cedars and other areas and structures beneficial or useful to The Cedars; supplement municipal and other governmental services; fix assessments to be levied against the Parcels and the owners of such Parcels; enforce any and all covenants, restrictions and agreements applicable to the Property or any or any portion thereof; perform the duties of the Architectural Committee (as such term is defined in the Declaration) at such time as such duties are delegated to the Association as set forth in the Declaration; and pay taxes, if any, on the Common Areas; and, insofar as permitted by law, to do any other thing that, in the opinion of the Board, will promote the common benefit and enjoyment of the Members.

4.2.3 To own, operate and manage the Common Areas located in The Cedars, to perform and carry out the acts and duties incident to the administration, operation and management of the Common Areas in accordance with the terms, provisions, and conditions contained in the Declaration and these Articles of Incorporation, and to own, operate, lease, sell, mortgage, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient to the objectives and purposes of the Association.

4.2.4 To perform and carry out the functions and obligations of the Association as described in the Declaration and The Cedars Covenants.

4.2.5 To do such other things as may be necessary and proper for the carrying out and accomplishment of the above objects and purposes and of such other objects and

purposes as are deemed necessary and proper by its Directors. The objects and purposes expressed herein relate to services, benefits and expenditures pertaining to, derived from, or in connection with, The Cedars or areas thereof intended for and available for the common use and enjoyment or need of the Members.

4.3 Powers. In furtherance of the aforesaid objects, purposes and powers, the Association shall have and exercise all of the powers of a Corporation Not for Profit organized and existing under the laws of the State of Alabama and all the powers reasonably necessary to implement the powers of the Association, which powers shall include but are not limited to the power:

4.3.1 To make, levy and collect assessments and annual, monthly or quarterly maintenance charges from its Members and to expend the proceeds of such assessments and charges for the benefit of its Members.

4.3.2 To contract with any entities with which it or its members might be associated, to provide the services, benefits and advantages deemed appropriate by the Association.

4.3.3 To enforce by legal action suits on behalf of the Association.

4.3.4 To make, establish and enforce reasonable rules and regulations governing the use of the Common Areas.

4.3.5 To maintain, repair, replace and operate those portions of the Property that the Association has the duty or right to maintain, repair, replace and operate under the Declaration, The Cedars Covenants, these Articles and the Bylaws of the Association.

4.3.6 To contract for the management of the Common Areas and the other portions of the Property to be maintained by the Association and to delegate to such contractors, or any other entities with which it or its members might be associated, all or a part of the powers and duties of the Association.

4.3.7 To employ personnel to perform the services required or authorized by these Articles, the Declaration and by the Bylaws of the Association.

4.3.8 To purchase insurance, if appropriate, upon the Common Areas for the protection of the Association and its Members.

4.3.9 To reconstruct improvements to be maintained by the Association after casualty, deterioration or other loss.

4.3.10 To make additional improvements on and to the Common Areas or other areas to be maintained by the Association.

4.3.11 To acquire and enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in lands or facilities including but not limited to recreational facilities, whether or not contiguous.

4.3.12 To enforce by legal action the provisions of these Articles, the Bylaws, the Declaration, and The Cedars Covenants.

ARTICLE V

MEMBERS

5.1 Members. The Members of this Association shall consist of all record owners of Parcels, but shall not include mortgagees or other holders of security interests only. The members of the first Board of Directors named in these Articles of Incorporation and other Directors selected by Class B members, regardless of whether they are the owners of Parcels, shall also be Members of the Association until there are no longer any Class B Members or until all the then Class B members so designate in a writing delivered to the Association, whichever shall first occur. Fees, dues, assessments and charges required of Members shall be set in the manner prescribed by the Bylaws of the Association and in the Declaration.

5.2 No Assignment of Membership. Membership in this Association cannot be assigned, hypothecated or transferred in any manner except as may be provided in the Bylaws.

5.3 Classes of Membership. The Association shall have two classes of voting memberships: Class A and Class B.

Class A members shall be all persons owning one or more Parcels excepting those persons (or other entities) who are Class B members.

Class B members shall be the Declarant and the initial members of the Board of Directors. The Class B membership shall terminate and the then Class B members shall become Class A members at such time as (a) all the then Class B members so designate in a writing delivered to the Association or (b) at such time as the Declarant no longer owns title to or any interest in any portion of the Property.

When entitled to vote, each Member shall have one vote for each Parcel owned by such Member. Provided, in no event shall there be more than one vote per parcel.

Until such time as the Class B membership shall terminate as provided herein, the Class B members shall be vested with the sole voting rights in the Association, except on such matters as to which the Declaration, these Articles of Incorporation, or the Bylaws specifically require a vote of each and every class of membership, or except as required by law.

ARTICLE VI

TERM

This Corporation shall exist perpetually.

ARTICLE VII

SUBSCRIBERS

The names and residences of the three incorporators of the Corporation are as follows.

<u>Name</u>	<u>Address</u>
Henry A. Drake	3499 Independence Drive Birmingham, Alabama 35209
William A. Waldrip	3499 Independence Drive Birmingham, Alabama 35209
John Montgomery	3499 Independence Drive Birmingham, Alabama 35209

ARTICLE VIII

BOARD OF DIRECTORS

The business and affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) nor more than seven (7) Directors. The first Board of Directors shall consist of three (3) Members. Change in the maximum number of Directors shall be permitted by amendment to the Bylaws of the Association or by amendment to the Articles of Incorporation. The Board of Directors shall be elected by the Members of the Association entitled to vote. The names and addresses of the first Board of Directors who shall hold office until Class A Members shall become entitled to full voting privileges, or until all the then Class B members so designate in a writing delivered to the Association, whichever shall first occur, and thereafter until their successors are elected and have qualified, are as follows:

<u>Name</u>	<u>Address</u>
Henry A. Drake	3499 Independence Drive Birmingham, Alabama 35209
William A. Waldrip	3499 Independence Drive Birmingham, Alabama 35209
John Montgomery	3499 Independence Drive Birmingham, Alabama 35209

The Directors of the Association shall be elected at the time and in the manner provided for in the Bylaws.

Among other things, the Board of Directors shall have the authority to make and alter Bylaws and the further authority to exercise all such other powers and to do all such other lawful acts and things which this Association or its Members might do, unless prohibited from doing so by applicable laws, the Declaration, the Articles of Incorporation, or the Bylaws of this Association.

ARTICLE IX

OFFICERS

The officers of the Association shall consist of a President, one or more Vice Presidents, a Secretary and a Treasurer. The officers of the Association shall be elected by the Board of Directors of the Association in accordance with the provisions of the Bylaws of the Association. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

ARTICLE X

INDEMNIFICATION

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, or any settlement thereof, whether or not he is a Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that, in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for 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 under Alabama law.

ARTICLE XI

DISPOSITION OF ASSETS UPON DISSOLUTION

No Member, Director or officer of the Association or other private individual shall be entitled to share in the distribution of any of the Association assets upon dissolution of the Association. Unless agreed to the contrary by seventy-five percent (75%) of each and every class of membership, upon dissolution of the Association, the assets of the Association shall be granted, conveyed and assigned to an appropriate public body, agency or agencies, utility or utilities or any one or more of them or to any one or more non-profit corporations, associations, trusts or other organizations to be devoted to purposes as nearly as practicable the same as those to which they were

required to be devoted by the Association. No disposition of the Association's assets shall be effective to divest or diminish any right or title of any Member vested in him under recorded covenants and restrictions applicable to such assets unless made in accordance with the provisions of such covenants and restrictions.

ARTICLE XII

AMENDMENT OF ARTICLES


These Articles may be amended by an affirmative vote of two-thirds (2/3) of the Members of the Association entitled to vote.


ARTICLE XIII

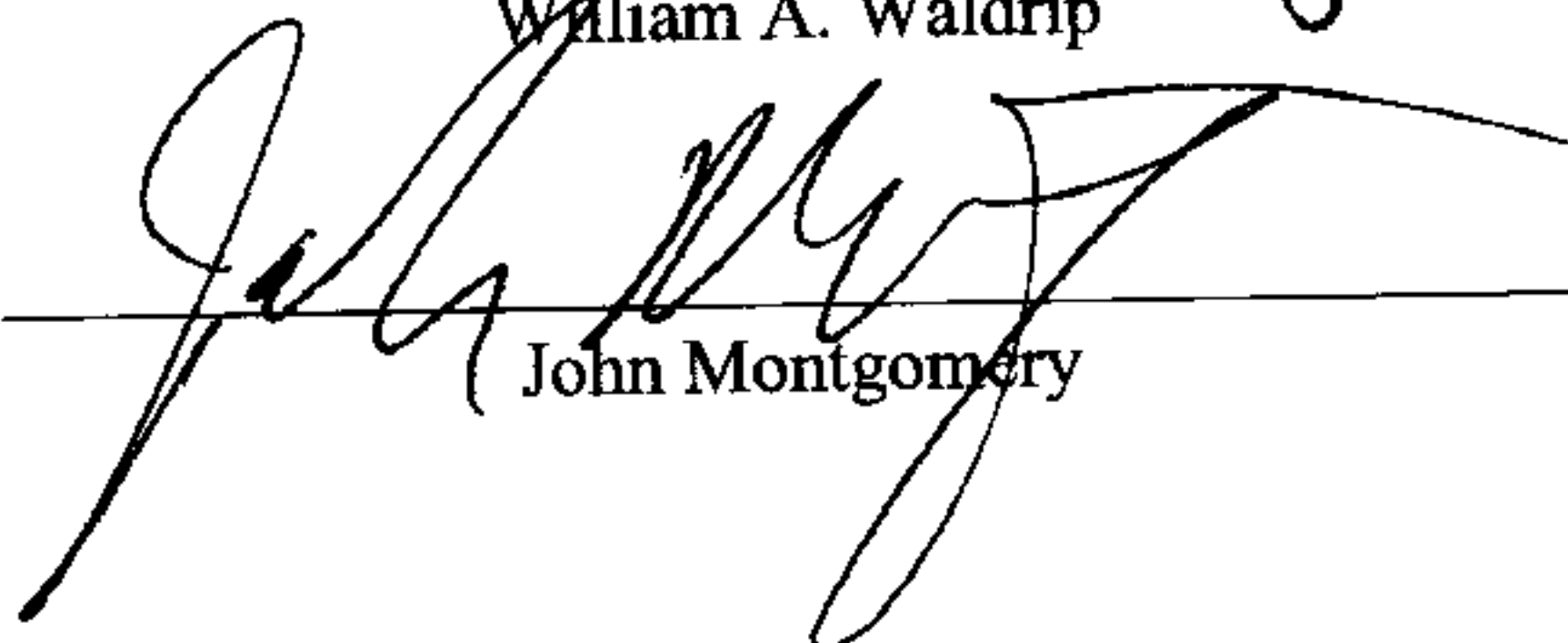
Bylaws

The Association shall adopt Bylaws governing the conduct of the affairs of the Association. The Bylaws shall be altered, amended, or rescinded as provided in the Bylaws.

IN WITNESS WHEREOF, the subscribing incorporators have hereunto set their hands and seals and caused these Articles of Incorporation to be executed this 29 day of June, 1999.


Henry A. Drake


William A. Waldrip


John Montgomery

STATE OF ALABAMA

)

SHELBY COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Henry Drake, 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 the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the day of June 29, 1999.

Roena Bearden

Notary Public

[NOTARIAL SEAL]

My commission expires July 16, 2000

STATE OF ALABAMA

)

SHELBY COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that William A. Waldrip 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 the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the day of June 29, 1999.

Henry A. Drake

Notary Public

[NOTARIAL SEAL]

My commission expires MY COMMISSION EXPIRES AUGUST 20, 1997 2000

STATE OF ALABAMA

SHELBY COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that John Montgomery, 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 the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the day of June 29, 1999.

Henry G. Orban
Notary Public

[NOTARIAL SEAL]

My commission expires MY COMMISSION EXPIRES AUGUST 20, 1999 2001

BYLAWS
OF
THE CEDARS
HOMEOWNERS ASSOCIATION, INC.
(a corporation not for profit)

**BYLAWS
OF
THE CEDARS HOMEOWNERS ASSOCIATION, INC.**

**A Corporation not for Profit
under the Laws of the State of Alabama**

These are the Bylaws of The Cedars Homeowners Association, Inc. (hereinafter for convenience called "Association" or "Corporation"), a corporation not for profit, incorporated under the laws of the State of Alabama.

**ARTICLE I
ASSOCIATION**

1.1 Office. The office of the Association shall be at 3499 Independence Drive, Birmingham, Alabama 35209, or at such other place as shall be selected by a majority of the Board of Directors.

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

1.3 Seal. The corporate seal of the Association, if desired by the Association, shall consist of two concentric circles, between the edges of which shall be engraved the words: **THE CEDARS HOMEOWNERS ASSOCIATION, INC., Alabama, Not for Profit**, and across the center thereof the words: **Corporate Seal**, all as shown by an imprint of such seal in the margin of these Bylaws. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

**ARTICLE II
DEFINITIONS**

2.1 The Cedars Covenants. Those certain restrictions and protective covenants on The Cedars Property previously filed for record in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 1999-29516

2.2 Association. The Cedars Homeowners Association, Inc., its successors and assigns.

2.3 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 the owner thereof.

2.4 Board. The Board of Directors of the Association.

2.5 Bylaws. The duly enacted Bylaws of the Association.

2.6 Common Areas. Those portions of the Property which are conveyed to the Association or otherwise defined or designated as Common Areas pursuant to Article IV of the Declaration or by notation on any record map or plat of the Property.

2.7 Declaration. The Declaration of Protective Covenants of The Cedars, a Residential Subdivision, recorded in the Office of the Judge of Probate of Shelby County, Alabama, as Instrument Number 1999, as the same may from time to time be supplemented or amended in the manner described herein. 29516

2.8 Deed. Any deed, court decree or other instrument conveying fee title into any part of the property subjected to the Declaration.

2.9 Declarant. Hickory Construction Company, Inc. and any successor thereof and any purchaser from Hickory Construction Company, Inc. ("Hickory") of any portion of the Hickory Property (as defined in the Declaration) to whom Hickory Construction Company, Inc. also conveys and assigns its rights hereunder as Declarant; Homes and Land, Inc., and Alabama corporation ("H and L") and any successor thereof, and any purchaser from H and L of any portion of the H and L Property (as defined in the Declaration) to whom H and L also conveys and assigns its rights hereunder as Declarant. Whenever any rights or powers are specifically reserved or granted in this instrument to Declarant, same may be exercised by Hickory, and same may not be exercised without Hickory's written consent.

2.10 Entranceway Improvements. Those certain improvements to be made with respect to any entranceway into the Property from Cahaba Valley Road, which improvements may be located partially on that portion of the Property described as Lots 1, 2, 3, 4, 5, and 49 according to the plat of The Cedars, as recorded in Map Book 25, Page 134+135 in the Office of the Judge of Probate of Shelby County, Alabama, and partially in the rights-of-way of Cahaba Valley Road and the rights-of-way within the Property and which shall include the entrance walls, monument signs, landscaping, lighting and a water sprinkler system.

2.11 Member. A person or other entity who is a record owner of fee simple title to any portion of the Property.

2.12 Parcel. Any lot on a subdivision plat of the Property recorded in the Probate Office that has been designated for a residence, regardless of whether a residence has actually been constructed on such lot.

2.13 Parcel Owner. The owner(s) of record title to any Parcel.

2.14 Resident. Any person(s) occupying a Parcel.

2.15 The Cedars Property. The property described in the Declaration and other property which may be acquired by Declarant and developed as a part of The Cedars.

2.16 Property. The property subjected to the Declaration and described on Exhibit A and Exhibit B to the Declaration, along with any other real property which may be subjected to the Declaration by separate instrument executed by the Declarant.

ARTICLE III

MEMBERSHIP

3.1 Membership. The Members of the Association shall consist of all Parcel Owners together with all those persons or other entities as set forth in Article V of the Articles of Incorporation.

3.2 Classes of Membership. The Association shall have two classes of membership, Class A and Class B, each such Class consisting of those members meeting the applicable qualifications for membership in each respective Class, as set forth in Article V of the Articles of Incorporation.

3.3 Rights and Obligations of Membership. The Members shall have all the rights, privileges, duties and obligations applicable to their respective Class of membership as set forth in the Declaration, the Articles of Incorporation, and elsewhere in these Bylaws.

3.4 Assessments. The rights of membership are subject to the payment of such assessments, fees and charges as might be imposed, levied or set by the Association. The obligation for the payment of such assessments and charges is imposed against each owner of, and is a lien upon, the Parcel against which such assessment or charge is made, as provided by the Declaration, which in substance provides as follows:

3.4.1 Continuing Liens. All Parcels shall be subject to a continuing lien for assessments levied by the Association in accordance with the provisions of the Declaration, the The Cedars Covenants, the Articles of Incorporation and these Bylaws. The assessments and charges together with interest thereon and the costs of collection thereof (including reasonable attorney's fees) as hereinafter provided, shall be a charge on, and shall be a continuing lien upon, the Parcel against which each such assessment or charge is made. All Parcels shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged and otherwise encumbered subject to all the terms and provisions of the Declaration, the Articles of Incorporation and these Bylaws, including, but not limited to, the continuing lien herein described.

3.4.2 Personal Obligations of Members. Unless otherwise provided in a deed or other conveyance, each Member, by acceptance of a deed or other conveyance to a Parcel, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association the assessments and charges, such assessments to be fixed, established and collected from time to time as provided in the Declaration, the The Cedars Covenants, the Articles and these Bylaws. Each such assessment, together with interest and cost of collection, including reasonable attorney's fees, shall be the personal obligation of the person who is the owner of such Parcel at the time when the assessment fell due.

3.4.3 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of (i) providing any and all of the 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 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) for other purposes beneficial to the Members as determined by the Association; and (v) carrying out the functions, purposes, responsibilities and duties of the Association as set forth in the Declaration, the The Cedars Covenants, the Articles and these Bylaws. The Association does not assure that such services will be provided and nothing herein shall be construed as an obligation to provide any such services, except to the extent required in the Declaration.

3.4.4 Amounts of Assessments. The assessment applicable to Parcels shall be set by the Board of Directors of the Association as set forth in the Declaration.

3.4.5 Effect of Non-Payment of Assessments; Remedies of the Association. Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at such rate of interest as the Association might reasonably determine. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Parcel owned by the Member. No Member may waive or otherwise escape liability for the assessments provided for in the Declaration or in these Bylaws by non-use of the Common Areas or other areas to which assessments are applied or abandonment of the Parcel owned by such Member.

3.4.6 Subordination of Lien to Mortgages. The lien of any assessment or charge authorized by the Declaration or this Article III of these Bylaws with respect to a Member's Parcel is subordinate to the lien of any *bona fide* mortgage; provided that all assessments or charges falling due on or prior to the date such mortgage is recorded have been paid. The sale or transfer of any Member's Parcel pursuant to a sale under power contained in a mortgage on such Parcel 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 of the mortgagor. The foregoing subordination shall not relieve a Member whose Parcel has been mortgaged of his personal obligation to pay all assessments and charges falling due during the time he is the owner of such Parcel. The Board of Directors may at any time, either before or after the mortgaging of any Member's Parcel, 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 such Parcel coming due during the period while such Parcel is or may be held by a mortgagee or mortgagees pursuant to such sale or transfer.

3.5 Suspension of Membership Rights. The membership rights of any Member, including the right to vote, may be suspended by the Board of Directors (i) for any period during which any assessment or charge owed to the Association by such Member remains unpaid, and (ii) for a period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations. Any such suspension shall not affect such Member's obligation to pay assessments coming due during the period of suspension and shall not affect the permanent charge and lien on the Member's Parcel in favor of the Association.

ARTICLE IV

VOTING RIGHTS

Each class of membership shall have those voting rights as set forth in Article V of the Articles of Incorporation.

When entitled to vote, each Member shall have one vote for each Parcel owned by such Member.

When more than one (1) person (or other such entity) holds an ownership interest or interests in any Parcel, the vote for such Parcel shall be exercised as they among themselves shall determine, but in no event shall more than one (1) person be entitled to cast the vote with respect to any Parcel. In the event of disagreement among such persons (or other entities) and an attempt by more than one to cast the vote of such Parcel, such persons (or other entities) shall not be recognized and the vote with respect to such Parcel shall not be counted.

ARTICLE V

ASSOCIATION POWERS

5.1 Additions to Common Areas. The Association shall accept the conveyance to it of additional Common Areas by Hickory Construction Company, Inc.; provided that the property to be so conveyed meets all the requirements for becoming Common Areas set forth in the Declaration. No approval from any Member of the Association or anyone else is required for Hickory Construction Company, Inc. or its successors and assigns, to convey as additional Common Areas property otherwise meeting the requirements for becoming additional Common Areas.

5.2 Other Property Owned by the Association. In addition to acquiring additional Common Areas in the manner described in Section 5.1 hereof, the Association may, in the discretion of the Board of Directors, accept the conveyance to it by Hickory Construction Company, Inc. of property which shall not be held by the Association as Common Areas under the terms and provisions of the Declaration, but, rather, which may be used or leased by the Association for any purpose which the Board of Directors shall choose.

5.3 Mortgages. The Association shall have the power to mortgage or otherwise burden or encumber all or part of its properties, provided that any such mortgaging or encumbering shall be authorized by a fifty-five percent (55%) affirmative vote, on a class basis, of the Members entitled to vote.

5.4 Dedication or Transfer of Properties. The Association shall have the power to transfer the ownership of all or part of its properties, by dedication to a public authority or otherwise, provided that any such transfer shall be authorized by fifty-five percent (55%) affirmative vote, on a class basis, of the Members entitled to vote.

ARTICLE VI

BOARD OF DIRECTORS

6.1 Selection; Terms of Office. Until such time as the Declarant no longer owns any interest in any portion of the Property or at such earlier time as determined by the Class B membership, the Board of Directors shall consist of three (3) Directors, who shall be elected at the times and in the manner set forth in Section 6.2 hereof. After such time the Board of Directors shall consist of seven (7) Directors, who shall be elected at the time set forth in Section 6.3 and in the manner set forth in Article VII of these Bylaws.

6.2 Election of Directors by the Class B Members. Until such time as Class A Members shall be entitled to full voting privileges, as provided in Article VIII of the Articles of Incorporation, the Board of Directors shall consist of three (3) Directors who shall be elected in the following manner:

6.2.1 The initial Board of Directors set forth in Article VIII of the Articles of Incorporation shall hold office until such time as Class A Members shall be entitled to full voting privileges or until removed by and at the discretion of the Declarant. In the event any named Director ceases to be a Director prior to the time specified above in this Section 6.2.1, his replacement shall be elected by a majority of the total vote of the Class B membership at an appropriate annual meeting or special meeting of the Class B Members.

6.2.2 Any Director or Directors elected by the Class B Members may be removed at any time, with or without cause, by vote of seventy-five percent (75%) of the total vote of the Class B membership at any regular or special meeting thereof, and the removed Director may be replaced by a majority of the total vote of the Class B membership at any regular or special meeting thereof.

6.3 Election of Directors by the Class A Members. After such time as Class A Members shall be entitled to full voting privileges, the number of Directors shall be increased to seven (7) as set forth in Article VIII of the Articles of Incorporation, and the Class A Members shall be entitled to elect all seven (7) of the new members of the Board of Directors. Election of such Directors by the Class A Members shall be in the manner set forth in Article VII and Sections 6.3.1 and 6.3.2 of these Bylaws. The election of the Directors by the Class A Members shall occur as follows:

6.3.1 The incumbent Board of Directors elected by the Class B Members shall hold office until the election of their successors by the Class A Members at the annual meeting of the Class A Members to be held for this purpose within sixty (60) days after the date upon which Class A Members shall be entitled to full voting privileges, or the termination of the Class B membership, whichever is sooner.

6.3.2 At the first annual meeting of the Class A Members, there shall be elected in the manner set forth in Article VII of these Bylaws seven (7) Directors, three (3) such

Directors being elected for three (3) years, and four (4) such Directors being elected for two (2) years.

The procedure set forth in Section 6.3.1 and 6.3.2 shall be used when the total number of Directors is increased to seven (7) as provided in Article V of the Articles of Incorporation.

6.4 Vacancies. After the date upon which Class A Members shall be entitled to full voting privileges, vacancies in the Board of Directors shall be filled by the majority of the remaining Directors, any such appointed Director to hold office until his successor is elected by the Class A Members at the next annual meeting of the Members or at any special meeting duly called for that purpose. Prior to the date upon which Class A Members are entitled to full voting privileges, vacancies in the Board of Directors shall be filled by the Declarant.

ARTICLE VII

ELECTION OF DIRECTORS BY CLASS A MEMBERSHIP

7.1 Election of Directors. Elections to the Board of Directors by the Class A membership shall be by written ballot as hereinafter provided. At such elections, the Class A Members or their proxies may cast as many votes as there are vacancies to be filled on the Board of Directors for each Parcel in which they hold any interest required for membership by Article V of the Articles of Incorporation, and such Member shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of Directors to be elected, or by distributing such votes on the same principle among any number of such candidates. The names receiving the largest number of votes shall be elected.

7.2 Nominations Committee. Nominations for a full slate of Directors for election to the Board of Directors by the Class A Members shall be made by the Nominations Committee. The Nominations Committee shall consist of five (5) persons appointed each year by the Board of Directors, 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 of Directors is to be held, and the slate of Directors to be nominated by the Nominations Committee shall be nominated at least thirty (30) days before the date of such election. No member of the Nominations Committee shall be eligible for nomination for the Board of Directors by such Committee.

In addition, nominations for the Board of Directors may be made by petition signed by more than twenty (20) Members of the Association, provided that such petitions are filed with the Secretary of the Association at least thirty (30) days before the date of the meeting at which the Directors are to be elected.

7.3 Ballots. All elections to the Board of Directors 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 those nominated by petition timely filed with

the Secretary of the Association; and (c) containing a space for a write-in vote by the Members for each vacancy. Such ballots shall be prepared and mailed 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 not later than the date for the annual meeting or special meeting called for election).

7.4 Voting Procedures. Each Class A Member shall receive one (1) vote for each Parcel with respect to which he is the record owner (subject to the provisions of Article IV hereof). Each Member shall indicate next to the name of each nominee on the ballot the number of votes he casts for the election of such nominee to the Board of Directors, or shall write in the name of a person not so nominated in the space on the ballot provided for this purpose, together with the number of votes he wishes to cast for said person. All ballots shall be signed by the Member casting it and returned to the Secretary of the Association, who, upon receipt of each ballot shall immediately place it in a safe or other locked place until the day set forth for the annual or other special meeting at which the elections are to be held. On that date, the ballots shall be turned over to an Elections Committee which shall consist of five (5) Members appointed by the Board of Directors. The Elections Committee shall then adopt a procedure which shall:

7.4.1 Establish that the number of ballots turned in by each Member corresponds with the number of Parcels owned by such Member or his proxy identified on the ballot; and

7.4.2 Establish that the signature of the Member or his proxy on the ballot is genuine; and

7.4.3 If the vote is by proxy, establish that a proxy has been filed with the Secretary as provided in Article XII of these Bylaws and that such proxy is valid.

Said procedure by the Elections Committee shall be taken in such a manner that the vote of any Member or his proxy shall not be disclosed to anyone, including the Elections Committee.

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

ARTICLE VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

8.1 Powers. The Board of Directors shall have the powers:

8.1.1 To call special meetings of the Members whenever it deems necessary, and it shall call a meeting at any time upon written request of one-fourth ($\frac{1}{4}$) of the voting membership, as provided in Section 12.2.

8.1.2 To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any member, officer or Director of the Association in any capacity whatsoever.

8.1.3 To establish, levy, assess and collect the assessments and charges set forth in Article III.

8.1.4 To adopt and publish rules and regulations governing the use of the Common Areas and the facilities, and the personal conduct of the Members and their guests thereon.

8.1.5 To exercise for the Association all powers, duties and authorities vested in or delegated to the Association, except those reserved to Members in the Declaration, or in the Articles of Incorporation, or elsewhere in these Bylaws.

8.1.6 To appoint such committees, as it deems in the best interests of the Association to carry out the functions and duties of the Board of Directors.

8.2 Director Absence. In the event that any member of the Board of Directors of the Association shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may by action taken at the meeting during which said third absence occurs, declare the office of said absent Director to be vacant, and the provisions relating to the filling of a vacancy of the Board of Directors as set forth in Section 6.4 shall become operative.

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

8.3.1 To cause to be kept a complete record of all its 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, as provided in Section 12.2.

8.3.2 To supervise all officers, agents and employees of the Association, and to insure that their duties are properly performed.

8.3.3 As more fully provided in the Declaration and Article III of these Bylaws, to fix the amount of the assessment against each Parcel owned by a Member at least thirty (30) days in advance of the date of any payment of such assessment is due.

8.3.4 To prepare a roster of the Parcels and assessments applicable thereto which shall be kept in the offices of the Association and which shall be open to inspection by any Member thereof, and, to send written notice of each assessment to every Member subject thereto.

8.3.5 To issue, or cause an appropriate officer to issue upon demand by any person, a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

8.3.6 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 of Directors shall determine.

ARTICLE IX

DIRECTORS MEETING

9.1 Time and Place. Meetings of the Board of Directors may be held at any place within or without the State of 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 such annual meeting at such place and time 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 such time and place (within or without the State of Alabama) as shall from time to time be determined by the Board of Directors.

9.2 Notice. Notice of regular meetings of the Board of Directors is hereby dispensed with. If the day for a regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

9.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days' notice to each Director.

9.4 Waivers, Consents and Approvals. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever 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 to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and shall be made a part of the minutes of the meeting.

9.5 Quorum. The majority of the Board of Directors shall constitute a quorum thereof.

9.6 Adjourned Meetings. 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 might have been transacted at the meeting as originally called, may be transacted without further notice.

ARTICLE X

OFFICERS

10.1 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 of Directors.

10.2 Majority Vote. The officers shall be chosen by majority vote of the Directors.

10.3 Term. All officers shall hold office at the pleasure of the Board of Directors.

10.4 President. The President shall preside at all meetings of the Board of Directors, and shall see that orders and resolutions of the Board of Directors 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 of Directors.

10.5 Vice President. The Vice President shall perform all the duties of the President in his absence.

10.6 Secretary. The Secretary shall be "ex-officio" the Secretary of the Board of Directors, and shall record the vote and keep the minutes of all proceedings in a book to be kept for such purpose. He shall keep the records of the Association. He shall record in a book kept for such purpose the names of all Members of the Association together with their addresses as registered by such Members. The Secretary shall give notice of meetings as required, and shall receive and file proxies of Members as provided in Article XIII hereof.

10.7 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 of Directors; provided, however, that a resolution of the Board of Directors 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 that such checks and notes shall also be signed by the President or the Vice President in his absence.

10.8 Bookkeeping. The Treasurer shall keep proper books of account and cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year. The Treasurer shall prepare the annual budgets and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

ARTICLE XI

COMMITTEES

11.1 Standing Committees. Until such time as Class A Members are entitled to full voting privileges, there shall be no requirement of standing committees of the Association. From and after the first annual meeting of the Class A Members, the standing committees of the Association shall be the Budget Committee, the Maintenance Committee, and the Audit Committee.

Unless otherwise provided herein, each committee shall consist of a Chairman, and two (2) or more members and shall include a member of the Board of Directors. The committees shall be appointed by the Board of Directors immediately after each annual meeting to serve until the close of the next annual meeting. The Board of Directors may appoint such other committees as it is deemed desirable.

11.2 Budget Committee. The Budget Committee shall advise the Board of Directors on all matters pertaining to the budget and operating expenses of the Association and shall perform such other functions as the Board, in its discretion, shall determine.

11.3 Maintenance Committee. The Maintenance Committee shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the Common Areas and shall perform such other functions as the Board shall, in its discretion, determine.

11.4 Audit Committee. The Audit Committee shall supervise the annual audit of the Association books and approve the annual budget and balance sheet statement to be presented to the membership at its regular annual meeting as provided in Section 10.8 hereof. The Treasurer shall be an "ex-officio" member of this Committee.

11.5 Subcommittees. Each Committee shall have the power to appoint a subcommittee from among its membership and may delegate to any such subcommittee any of its powers, duties and functions set forth in this Article XI, and as delegated by the Board of Directors.

11.6 Review of Complaints. It shall be the duty of each committee to receive complaints from Members on any matter involving Association functions, duties and activities in its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, Director or officer of the Association as is further concerned with the matter presented.

ARTICLE XII

MEETINGS OF MEMBERS

12.1 Annual Meeting. Until the time at which the Class B membership terminates, as provided in Article V of the Articles of Incorporation, the regular annual meeting of

the Class B members shall be on the first Monday in February of each year, or within two (2) weeks thereafter, at a time and place to be agreed upon by the Class B members.

Until the time at which the Class B membership terminates, there shall be no annual or regular meeting of the Class A membership.

The first annual meeting of the Class A Members shall be held within sixty (60) days after the date upon which Class A Members shall be entitled to full voting privileges. Thereafter, the regular annual meeting of the members shall be held at 8:00 o'clock P.M. on the second Monday in February of each year (beginning the year in which said meeting date is more than twelve months following the initial meeting), provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the following Friday. The place of the annual meetings shall be determined by the Board of Directors.

12.2 Special Meetings. Special meetings of either class of membership for any purpose may be called at any time by the President, the Vice President, the Secretary or the Treasurer, or by any two (2) or more members of the Board of Directors. 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 ($\frac{1}{4}$) of the total votes entitled to be cast under the provisions of Article V of the Articles of Incorporation at the time such written request is made.

12.3 Notice. Notice of any meetings of a class of membership shall be given to the Members of that class 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 prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary, and notices of meetings shall be mailed to him at such address. Notice of any regular or special meeting shall be mailed at least six (6) days in advance of the meeting, and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve an election governed by Article VII, notice of such meeting shall be given or sent as therein provided.

12.4 Quorum. The presence at the meetings of Members entitled to cast, or of proxies entitled to cast, one-third ($\frac{1}{3}$) of the vote of the class of membership so meeting shall constitute a quorum for any actions governed by these Bylaws unless it is provided otherwise in the Declaration, or the Articles of Incorporation, or elsewhere in these Bylaws.

ARTICLE XIII

PROXIES

13.1 Form of Vote. At all meetings of Members, each Member entitled to vote may vote in person or by proxy.

13.2 Proxies. All proxies shall be in writing filed with the Secretary of the Association. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall

be automatically cease upon the sale by the Member of his Parcel or other interest in Member's Property.

ARTICLE XIV

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 XV

PARLIAMENTARY RULE

Robert's Rules of Order (latest edition) shall govern the conduct of the Association proceedings when not in conflict with the Declaration or the Articles of Incorporation.

ARTICLE XVI

AMENDMENTS

Until the time at which the Class B membership terminates, at which time the Class A membership is entitled to full voting privileges, as provided for in Article V of the Articles of Incorporation, these Bylaws may be amended upon a majority vote of the Board of Directors in any respect. After such time as the Class A members shall be entitled to full voting privileges, these Bylaws may be amended in any respect upon recommendation of the Board of Directors and subsequent approval at a regular or special meeting of the Members by a sixty percent (60%) vote of the total vote of all the then existing classes of membership, present in person or by proxy; provided, however, that those provisions of these Bylaws 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 Declaration may not be amended except as provided in the Declaration.

ARTICLE XVII

CONFLICTS

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, we, being all of the directors of The Cedars Homeowners Association, Inc., have heretofore set our hands this 29 day of June, 1999.

Henry A. Drake
Henry A. Drake

William A. Waldrip
William A. Waldrip

John Montgomery
John Montgomery

Inst # 1999-29516

07/14/1999-29516
03:12 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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