

**THESE AMENDED AND RESTATED BYLAWS AMEND AND
RESTATE THOSE CERTAIN BYLAWS OF HIDDEN CREEK
RESIDENTIAL ASSOCIATION, INC. DATED JANUARY 29, 1998 AND
RECORDED AT INSTRUMENT # 1998-03077 IN THE OFFICE OF THE
JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA**

**AMENDED AND RESTATED
BYLAWS**

OF

**HIDDEN CREEK
RESIDENTIAL ASSOCIATION, INC.**

(a corporation not for profit)

Inst # 2001-42541

10/02/2001-42541
02:27 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
016 CH 56.00

This instrument prepared by:

**Josephine R. Lowery
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 2600
Birmingham, Alabama 35203**

**AMENDED AND RESTATED
BYLAWS
OF
HIDDEN CREEK RESIDENTIAL ASSOCIATION, INC.**

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

These are the Bylaws of Hidden Creek Residential Association, Inc. (hereinafter 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 One Riverchase Office Plaza, Suite 200, Birmingham, Alabama 35244, 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 shall consist of two concentric circles, between the edges of which shall be engraved the words: HIDDEN CREEK RESIDENTIAL ASSOCIATION, INC., Alabama, Not for Profit, and across the center thereof the words: Corporate Seal. The seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise. Use of the seal is not necessary to any action of the Association.

ARTICLE II

DEFINITIONS

Capitalized terms not otherwise defined herein shall have the meanings given them in the Declaration (defined below):

2.1 Articles of Incorporation. The articles of incorporation of the Association, as filed in the office of the Judge of Probate, Shelby County, Alabama.

2.2 Association. Hidden Creek Residential 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 Bylaws of the Association.

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

2.7 Declaration. The Declaration of Protective Covenants for Hidden Creek which shall be recorded in the Office of the Judge of Probate of Shelby County, Alabama, 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 Developer. Coales Branch, L.L.C., an Alabama limited liability company, and any successor thereof and any purchaser from Coales Branch, L.L.C. of any portion of the Subject Property to whom Coales Branch, L.L.C. also conveys and assigns its rights hereunder as Developer.

2.10 Member. A Parcel Owner.

2.11 Parcel. Any unit, lot, part or parcel of the Subject Property designed for a residence and platted of record, regardless of whether a dwelling has or has not been constructed thereon.

2.12 Parcel Owner. The owner or owners of record title to any Parcel.

2.13 Resident. Any person or persons occupying a Parcel.

2.14 Hidden Creek or Hidden Creek Property. The name of the Subject Property.

2.15 Subject Property. The property subjected to the Declaration, including both the property more particularly described as Hidden Creek, Townhomes Sector I, as described in the Declaration, and any other real property which may be subjected to the Declaration by separate instrument executed by Developer.

2.16 Termination of Developer Voting Rights. The date which is the earlier of (i) the expiration of one (1) year during which Developer does not own any portion of the Subject Property, or (ii) the time when Developer notifies the Association in writing that Developer relinquishes and terminates Developer control over the Association.

ARTICLE III

MEMBERSHIP

3.1 Membership. The Members of the Association shall consist of all Parcel Owners.

3.2 Classes of Membership. The Association shall have one class of membership.

3.3 Rights and Obligations of Membership. The Members shall have all the rights, privileges, duties and obligations 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 other charges as might be imposed, levied or set by the Board. The obligation for the payment of assessments and charges is imposed against each Parcel Owner of, and is a lien

upon, the Parcel against which the 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 Board in accordance with the provisions of the Declaration, the Articles of Incorporation, and these Bylaws. The assessments and charges together with interest thereon and the costs of collection thereof (including reasonable attorneys' fees), 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, and except as otherwise specifically provided, 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. Each Member, by acceptance of a deed or other conveyance to a Parcel, whether or not it shall be so expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay to the Association the assessments and charges, the assessments to be fixed, established and collected from time to time as provided in the Declaration, the Articles, and these Bylaws. Each assessment and other charges, together with interest and cost of collection, including reasonable attorneys' fees, shall be the personal obligation of the Parcel Owner at the time when the assessment or charge fell due.

3.4.3 Purpose of Assessments. The assessments levied by the Board 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 Subject Property; (iii) the payment of taxes and insurance on all property of the Association, and the repair, replacement and additions thereto, and for the cost of labor, insurance, equipment, materials, management and supervision thereof; (iv) such other purposes beneficial to the Members as determined by the Board; and (v) carrying out the functions, purposes, responsibilities and duties of the Association as set forth in the Declaration, the Articles, and these Bylaws. The Association does not assure that any services will be provided and nothing herein shall be construed as an obligation to provide any services, except to the extent required in the Declaration.

3.4.4 Amounts of Assessments. The assessment applicable to Parcels shall be set by the Board 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 Board 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 of these Bylaws with respect to a Member's Parcel is subordinate to the lien of any *bona fide* mortgage, if and only if all fees, assessments and charges levied against the Parcel due and payable on or prior to the date the 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 a 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 the Member's personal obligation to pay all assessments and charges falling due during the time the Member is the owner of the Parcel. The Board 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 the Parcel coming due during the period while the Parcel is or may be held by a mortgagee or mortgagees pursuant to a 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 (i) for any period during which any assessment or charge owed to the Association by the 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 suspension shall not affect the 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 Member shall have those voting rights as set forth in the Articles of Incorporation. Except as specifically set forth in the Declaration, no Member, other than the Developer, shall have any right to vote on any matter under the Declaration, the Articles of Incorporation or these By-Laws until the occurrence of a Termination of Developer Voting Rights.

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

When more than one person (or other such entity) holds an ownership interest or interests in any Parcel, the vote for the Parcel shall be exercised as they among themselves shall determine, but in no event shall more than one 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 a Parcel, the persons (or other entities) shall not be recognized and the vote with respect to that 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 the Developer. No approval from any Member of the Association or anyone else is required for the Developer to convey additional property to the Association as additional Common Areas property.

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, accept the conveyance to it by Developer 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 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 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 the transfer shall be authorized by fifty-five percent (55%) affirmative vote of the Members entitled to vote.

ARTICLE VI

BOARD

6.1 Selection; Terms of Office. Until there occurs a Termination of Developer Voting Rights, the Board shall consist of three directors, who shall be elected at the times and in the manner set forth in Section 6.2 hereof. Thereafter, the Board shall consist of five 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 Developer. Until there occurs a Termination of Developer Voting Rights, the Board shall consist of three directors who shall be elected in the following manner:

6.2.1 The initial Board set forth in the Articles of Incorporation shall hold office until there occurs a Termination of Developer Voting Rights, or until removed by and at the discretion of Developer. In the event any named director ceases to be a director prior to the time specified above in this Section, his or her replacement shall be elected by the Developer at an appropriate annual meeting or special meeting of the Developer.

6.2.2 Any director or directors elected by the Developer may be removed at any time, with or without cause, by the Developer at any regular or special meeting thereof, and the removed director may be replaced by any person elected by the Developer, at any regular or special meeting thereof.

6.3 Election of Directors by the Members Other than the Developer. After the occurrence of Termination of Developer Voting Rights, the number of directors shall be increased to five and the Members shall be entitled to elect all of the new members of the Board. Election of the directors by the 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 Members shall occur as follows:

6.3.1 The incumbent Board elected by the Developer shall hold office until the election of their successors by the Members at a special meeting of the Members to be held for this purpose within sixty (60) days after the occurrence of a Termination of Developer Voting Rights.

6.3.2 At a special meeting of the Members, there shall be elected in the manner set forth in Article VII of these Bylaws the required number of directors who shall serve the following terms: two (2) candidates shall serve three (3) year terms on the Board, two (2) candidates shall serve two (2) year terms on the Board and one (1) candidate shall serve a one (1) year term on the Board. Such candidates shall be elected for the following terms: (i) the two (2) candidates receiving the first and second highest number of votes shall each be elected to three (3) year terms; (ii) the next two (2) candidates receiving the third and fourth highest number of votes shall each be elected to two (2) year terms and (iii) the next candidate receiving the fifth highest number of votes shall be elected to a one (1) year term. All such elected members of the Board of Directors shall serve until such

time as their respective successors have been duly elected. At the next meeting of the Board of Directors in which directors will be elected, the members shall elect Directors for terms of three (3) years each to fill the position of any expired terms of any Director. After the initial term, the term of each Director shall be three (3) years. There shall be no cumulative voting by the members.

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 five.

6.4 Vacancies. After the occurrence of a Termination of Developer Voting Rights, vacancies in the Board shall be filled by the majority of the remaining directors, any appointed director to hold office until that director's successor is elected by the Members at the next annual meeting of the Members or at any special meeting duly called for that purpose. Prior to the occurrence of a Termination of Developer Voting Rights, vacancies in the Board shall be filled by Developer.

ARTICLE VII

ELECTION OF DIRECTORS BY MEMBERS

7.1 Election of Directors. Elections to the Board by the Members shall be by written ballot as hereinafter provided. At these elections, the Members or their proxies may cast as many votes as there are vacancies to be filled on the Board for each Parcel in which they hold any interest required for membership by the Articles of Incorporation, and a Member shall not have the right to cumulate that Member's vote. 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 by the Members shall be made by the Nominations Committee. The Nominations Committee shall consist of five persons appointed each year by the Board, two of whom shall be directors, and three of whom shall be non-directors. Members of the Nominations Committee shall be appointed each year by the Board of Directors at least forty-five (45) days before the date on which the election for the members of the Board is to be held, and the slate of directors to be nominated by the Nominations Committee shall be nominated at least thirty (30) days before the date of the election. No member of the Nominations Committee shall be eligible for nomination for the Board by such Committee.

In addition, nominations for the Board may be made by petition signed by more than twenty (20) Members of the Association, provided that the 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 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. The 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 Member shall receive as many votes as there are vacancies to be filled on the Board for each Parcel with respect to which the Member 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 the Member casts for the election of the nominee to the Board, 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 the Member wishes to cast for that 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 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 a committee which shall consist of three (3) Members appointed by the Board (the "Elections Committee"). 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 that Member or that Member's proxy is properly identified on the ballot; and

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

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

If any ballot is found to contain more than the number of votes which the Member signing that ballot is entitled to cast, all votes on that ballot shall be disqualified and shall not be counted. After the announcement of the results by the 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

8.1 Powers. The Board 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 (1/4) of the voting membership, as provided in Section 12.2 hereof.

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 any 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 hereof.

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, the Articles of Incorporation, or elsewhere in these Bylaws.

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

8.1.7 To reimburse each Director for reasonable expenses incurred in attending meetings.

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

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

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 hereof.

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 the 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. The 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 shall determine.

ARTICLE IX

DIRECTORS' MEETING

9.1 Time and Place. Meetings of the Board may be held at any place within or without the State of Alabama. The annual meeting of the Board shall be held immediately following the close of the annual meeting of the Members and at the place thereof, or the Board may hold any annual meeting at the place and time as shall be fixed by the consent in writing of a majority of the directors. Regular meetings of the Board may be held at the time and place (within or without the State of Alabama) as shall from time to time be determined by the Board.

9.2 Action Without a Meeting. Any action required or permitted by the Alabama Nonprofit Corporation Act to be taken at a meeting of the board of directors or a committee thereof may be taken without a meeting if the action is taken by all members of the Board or of the

committee, as the case may be. The action shall be evidenced by one or more written consents describing the action taken, signed by each director or committee member, as the case may be, and included in the minutes or filed with the Association records reflecting the action taken. Members of the Board of Directors or any committee designated thereby also may participate in a meeting of the Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by this means shall constitute presence in person at the meeting. Action taken under this Section 9.2 is effective when the last director or committee member, as the case may be, signs the consent, unless the consent specifies a different effective date. A consent signed under this Section 9.2 has the effect of a meeting vote and may be described as such in any document.

9.3 Notice. Notice of regular meetings of the Board 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.

9.4 Special Meetings. Special meetings of the Board shall be held when called by any officer of the Association or by any two directors after not less than three days' notice to each director.

9.5 Waivers, Consents and Approvals. The transaction of any business at any meeting of the Board, 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 waivers, consents or approvals shall be filed with the corporate records and shall be made a part of the minutes of the meeting.

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

9.7 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. Any two or more offices may be held by the same person, except the offices of President and Secretary.

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, but in no event shall any officer hold office for a term longer than three (3) years.

10.4 President. The President shall preside at all meetings of the Board and shall see that orders and resolutions of the Board are carried out, and sign all notes, checks, leases, mortgages, deeds and all other written instruments as may be incidental to the orders and resolutions of the Board.

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

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

10.7 Treasurer. The Treasurer shall have general supervision over the care and custody of the funds and over the receipts and disbursements of the Association and shall cause the funds of the Association to be deposited in the name of the Association in such banks or other depositories as the Board may designate. The Treasurer shall have all powers and duties usually incident to the office of Treasurer except as specifically limited by a resolution of the Board and shall be entitled to make disbursements in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall have such other powers and perform such other duties as may be assigned to the Treasurer from time to time by the Board or President.

10.7.1 Checks, Drafts, etc.. All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer of the Association.

10.8 Bookkeeping. The Treasurer shall keep proper books of account and, if required by resolution of the Board, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year. Unless required by resolution of the Board, there is no requirement that the audit be made by public accountant. The Treasurer shall prepare the annual budgets and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

10.9 Salaries. The officers of the Association shall not be entitled to any salaries or other compensation except for reasonable expenses incurred on behalf of the Association which shall be reimbursed.

ARTICLE XI

COMMITTEES

11.1 Standing Committees. There shall be no requirement of standing committees of the Association. From and after the first annual meeting of the Members, the standing committees of the Association may be the Budget Committee, the Maintenance Committee, and the Audit Committee. These committees, if and when established and chosen by the Board, shall have the duties set forth herein, provided, however, that the Board may in its discretion add to or reduce such duties, and may in its discretion combine the duties of two or more committees into one committee.

Unless otherwise provided herein or by the Board, each committee shall consist of a Chairman, and two or more Members and shall include a member of the Board. The committees may be appointed by the Board immediately after each annual meeting or at any other time as the

Board determines, to serve until the close of the next annual meeting. The Board may appoint other committees as it is deemed desirable.

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

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

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 filed of responsibility. It shall dispose of these complaints as it deems appropriate or refer them to another committee, director or officer of the Association as is further concerned with the matter presented.

ARTICLE XII

MEETINGS OF MEMBERS

12.1 Annual Meeting. Until the occurrence of a Termination of Developer Voting Rights, the regular annual meeting of the Developer shall be on the first Monday in February of each year, or within two weeks thereafter, at a time and place to be agreed upon by the Developer. Until the occurrence of a Termination of Developer Voting Rights, except as provided in the Articles, action required or permitted by the Constitution of Alabama or the Alabama Nonprofit Corporation Act to be taken at a members' meeting may be taken without a meeting if the action is taken by the Developer. The action shall be evidenced by one or more written consents describing the action taken, signed by the Developer or the directors appointed by the Developer, and delivered to the Association for inclusion in the minutes or filing with the Association records.

Until the occurrence of a Termination of Developer Voting Rights, there shall be no annual or regular meeting of the Members.

A special meeting of the Members shall be held within sixty (60) days after the date there occurs a Termination of Developer Voting Rights. Thereafter, the regular annual meeting of the members shall be held in February of each year (beginning the year in which said meeting date is more than twelve months following the initial meeting). The place, date and time of the annual meetings shall be determined by the Board.

12.2 Special Meetings. Special meetings of the 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 or more members of the Board. In addition, special meetings of the voting membership must be

called upon the written request of the Members who have a right to vote one-fourth (¼) of the total votes entitled to be cast under the provisions of the Articles of Incorporation at the time the written request is made.

12.3 Notice. Notice of any meetings the membership shall be given to the Members by the Secretary. Notice may be given to the Members either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the Association. Each Member shall register that Member's address with the Secretary, and notices of meetings shall be mailed to that Member at that address. Notice of any regular or special meeting shall be mailed at least six 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 that meeting shall be given or sent as therein provided.

12.4 Quorum. The presence, either in person or by proxy, of Members holding at least ten percent (10%) or more of all votes in the Association shall constitute a quorum.

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. No fractional voting shall be permitted. For purposes of these Bylaws and the Articles of Incorporation, the vote of a "majority" of the members of the Association shall mean the vote of at least fifty-one percent (51%) of the total numbers of votes represented at a meeting whether in person or by proxy. Unless a greater proportion is specified in these Bylaws, the Articles of Incorporation or the Declaration, any matter which requires the vote, approval or disapproval or consent of the Members of the Association shall be deemed to have been given if a "majority" of the members of the Association represented at a meeting, either in person or by proxy, affirmatively vote for, approve or consent thereto.

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 the Member's Parcel or other interest in Member's Parcel.

ARTICLE XIV

INSURANCE, BONDS AND INDEMNIFICATION

14.1 Fidelity Bonds. The Board of Directors may require that any contractor or employee of the Association handling or responsible for Association funds furnish an adequate fidelity bond. The premium for this bond shall be paid by the Association and shall constitute a "Common Expense", as hereinafter defined.

14.2 Types of Insurance Coverage. The Association shall maintain in effect at all times any and all types of insurance coverage required by the Declaration, any workmen's compensation or other insurance required by law, and other insurance as the Board of Directors may from time to time in its sole discretion deem appropriate. The Board of Directors shall review the amount and terms of such insurance annually.

14.3 Damage of Destruction to Common Area. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agents shall proceed with the filing and adjustment of all claims arising under the insurance, and, in that event, the Board shall obtain reliable estimates of the cost of repair or reconstruction of the damaged or destroyed property in order to repair or reconstruct the same to substantially the same condition in which it existed prior to the fire or other casualty. The Association promptly shall commence and complete the repair and restoration of any portions of the Common Area damaged by any fire or other casualty. If the insurance proceeds for the damage or destruction are not sufficient to defray the cost thereof, and the deficiency cannot be appropriated from a reserve fund as may have been established for that purpose, the Board of Directors may levy a special assessment against all Members subject to the approval of the special assessment by fifty-one percent (51%) of all Members of the Association, to provide funds to pay the excess costs of repair or reconstruction. Any special assessment shall be levied against the Members in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of any special assessments shall be held by and for the benefit of the Association together with insurance proceeds, if any, for the damage or destruction. Insurance proceeds and assessments shall be disbursed by the Association in payment for the repair or reconstruction as is established by the Board of Directors. Any proceeds remaining after defraying these costs shall be retained by and for the benefit of the Association. If it is determined by the Board of Directors that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, all proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Area damaged or destroyed by fire or other casualty shall be cleared and the Common Area left in a clean, orderly, safe and sightly condition.

14.4 Condemnation of Common Area. Whenever all or any part of the Common Area of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board, the award made or collected for the taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Area on which improvements have been constructed, then the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Area which are available therefor, in accordance with the plans approved by the Board of Directors and the Architectural Review Committee. If the award is not sufficient to defray the cost of the repair and replacement and the deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special assessment against all Members, subject to the approval of such special assessment by fifty-one percent (51%) of all Members of the Association, to provide funds to pay the excess costs of repair or reconstruction. Any special assessment shall be levied against the Members in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If the Board of Directors determine that the improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

(b) If the taking or sale in lieu thereof does not involve any improvements to the Common Area, or if there are net funds remaining after such restoration or replacement of such improvements is completed, then the award or net funds shall be retained by and for the benefit of the Association.

ARTICLE XV

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 XVI

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 XVII

AMENDMENTS

Except as provided in the next paragraph, these Bylaws may be amended in any respect upon recommendation of the Board and subsequent approval at a regular or special meeting of the Members by a fifty-five percent (55%) vote of the total vote of all the then existing Members, 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.

Notwithstanding any provision to the contrary, but subject to the next sentence, at all times prior to the occurrence of Termination of Developer Voting Rights, Developer, at Developer's discretion, may amend any provision of the Articles of Incorporation, these Bylaws and the Declaration without consent or vote of any Member or other person or entity including, without limitation, amendments intended to satisfy requirements of any governmental agency or mortgage lender to make and accept mortgages on any Parcel. The Developer may not amend any provision of the Articles of Incorporation, the Declaration or these Bylaws (i) in a manner which would adversely affect the rights specifically given in the Declaration to holders of mortgages upon any Parcel without the mortgagee's prior written consent; (ii) to except a Parcel from the fees, charges and assessments provided in the Declaration; (iii) to lessen or extend the voting and membership rights of Parcel Owners without the prior written consent of the percentage of Parcel Owners as set forth in the Declaration; or (iv) in a manner which would materially and adversely alter a Parcel Owner's right to use the Parcel for residential purposes. Until the occurrence of Termination of Developer Voting Rights, none of the Articles of Incorporation, the Declaration or these Bylaws may be amended without the prior written consent of the Developer. Amendments by the Developer may apply to all of the Subject Property or to any portion thereof.

ARTICLE XVIII

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.

Inst # 2001-42541

**10/02/2001-42541
02:27 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
016 CH 56.00**