

**BYLAWS  
OF  
HABERSHAM RESIDENTIAL ASSOCIATION, INC.**

The Following are the Bylaws of Habersham Residential Association, Inc. hereinafter referred to as the "Association," a corporation not for profit under the laws of the State of Alabama formed for the purpose of managing and operating that certain development located in Shelby County, Alabama known as Habersham Place, a Residential Subdivision.

**ARTICLE I  
PRINCIPAL OFFICE**

The principal office of the Association shall be at 121 Biltmore Drive, Birmingham, Alabama 35242 or at such other place as may be designated subsequently by the Board of Directors. All books and records of the Association shall be kept at its principal office.

**ARTICLE II  
DEFINITIONS**

**Declaration Defined**

2.01 "Declaration" shall mean that certain Declaration of Protective Covenants for Habersham Place as recorded in the Office of the Judge of Probate Shelby County, Alabama, in Instrument Number 20060502000205240, and as amended from time to time, collectively known as the "Declaration; hereunder, unless the context otherwise requires.

2.02 Other terms used herein shall have the meaning given to them in the Declaration and are hereby incorporated by reference and made a part hereof.

**ARTICLE III  
MEMBERSHIP**

**Qualification**

3.01 The sole qualification for membership shall be ownership of a Lot in the Development. No membership may be separated from the lot to which it is appurtenant, provided, however, that the privileges of ownership may be exercised by a nominee of a Lot Owner designated in writing so long as:

- (1) The nominee is a resident on the property to which the membership is appurtenant;
- (2) No charge is made for use of the membership in excess of the amount of any assessments levied against the Lot Owner; and
- (3) Any assignment of privileges is revocable at the will of the Lot Owner.

### **No Additional Qualifications**

3.02 No initiation fees, costs or dues shall be assigned against any person as a condition of the exercise of the rights of membership except such assessments, levies, and charges as are specifically authorized by Article V of the Declaration.

### **Succession**

3.03 The membership of each Lot Owner shall automatically terminate on the conveyance, transfer, or other disposition of a Lot Owner's interest in a lot within the subdivision. The Lot Owner's membership shall automatically be transferred to the new Lot Owner succeeding to such ownership interest. On the conveyance, transfer, or other disposition of a portion of a Lot Owner's interest in a lot, the transferring Lot Owner and the transferee shall each be members of the Association in accordance with the percentage of ownership in the Lot of each following such conveyance or transfer.

## **ARTICLE IV MEETINGS OF MEMBERS**

### **Annual Meeting**

4.01 The annual meeting of the Members shall be held on the date, at that place, and at the time as determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and not later than thirteen months after the preceding annual meeting. The purpose of the annual meeting shall be to elect Directors, and to transact any other business authorized to be transacted by the Members or stated in the notice of the meeting sent to the Members in advance thereof.

### **Special Meeting**

4.02 Special meetings of the Members may be called at anytime by a majority of the Board, or on receipt by the Board of a written request of Members representing at least twenty percent (20%) of the total voting power of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

### **Notice of Meeting**

4.03 Notice of all meetings of Members shall state the time, place of the meeting and the reasons for which the meeting has been called. Notices shall be prepared and delivered by or at the direction of the Secretary and may be delivered either personally, by mail or e-mail to a Member of the address given to the Board by said Member, or to the Member's Lot if no such address has been given to the Board. Notice of the annual meeting shall be mailed or delivered to each Member not less than thirty (30) days prior to the meeting and not more than sixty (60) days, and notice of a special meeting shall be



mailed, delivered or e-mailed to each Member not less than thirty (30) days prior to the meeting and not more than sixty (60) days.

### **Rights of Lot Owners**

4.04 Lot Owners may participate in meetings of the Residential Association regarding all designated agenda items, provided the statements are limited to five minutes for each agenda item and the request to speak is given to the secretary at the beginning of the meeting.

### **Waiver of Notice**

4.05 Any Member may waive the right to receive notice of the annual meeting by sending a written waiver to the Board of Directors. Notice of specific meeting may be waived before or after the meeting either verbally or in writing. Attendance by a Member at annual meeting or special meeting, either in person or by proxy shall constitute waiver of notice of such meeting.

### **Quorum**

4.06 A quorum of Members for any meeting shall be deemed present throughout such meeting if Members represented in person or by proxy and holding 2/3 of all the votes entitled to be cast at such meeting are present at the beginning of such meeting. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

### **Action Without Meeting**

4.07 Any action that may be taken at a meeting of the members may also be taken without a meeting if consent in writing, setting forth the action so taken, is signed by the number of Members required to take such action at a meeting and is filed with the Secretary of the Association.

### **Minutes of Meeting**

4.08 The minutes of all meeting of Members shall be kept in a book available for inspection by Lot Owners or their authorized representatives. The Association shall retain these minutes for a period of not less than three (3) years.

## **ARTICLE V MEMBER'S VOTING RIGHTS**

5.01 In any meeting of the Members, each Member shall be entitled to one vote for each Lot owned. If more than one person holds an interest in any Lot, all such

persons shall be Members, but the Lot shall be entitled to only one vote. The vote of a Lot Owner shall not be divisible. The vote for a Lot with more than one owner shall be exercised as they among themselves determine, or in accordance with paragraph 5.04 below.

### **Vote Required to Transact Business**

5.02 When a quorum is present, the holder's of a majority of the voting rights present, in person or by proxy, shall decide any questions brought before the meeting, unless the question is one on which, by express provision of the Declaration, a different number is required. The following matters shall be subject to the affirmative vote of not less than 2/3 of the votes of the Members: (1) The merger or consolidation of the Association; The sale, lease, mortgage, or other disposition of substantially all of the property of the Association; and (3) The purchase of land or lots on behalf of the Association; Any single expenditure over an amount of three thousand and 00/100 dollars (\$3,000.00).

### **Designation of Voting Member**

5.03 If a lot is owned by more than one person, the person entitled to cast the vote for the lot may be designated by a certificate signed by all of the record owners of the lot and filed with the Secretary. If a lot is owned by a corporation, partnership, trust or other legal entity, the person entitled to cast the vote for the lot must be designated by a certificate of appointment signed by a duly authorized representative of the entity and filed with the Secretary. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in ownership of the lot involved. Such Certificate may be revoked by any owner of an interest in the lot.

### **Failure to Designate a Voting Member**

5.04 If a Lot is owned by more than one person and they do not designate a voting Member, the following provisions shall apply:

- (1) If more than one such owner is present at any meeting and they are unable to concur in a decision on any subject requiring a vote, they shall lose their right to vote on that subject at that meeting;
- (2) If only one such owner is present at a meeting that person shall be entitled to cast the vote pertaining to the lot;
- (3) If more than one such owner is present at the meeting and they concur, any one such owner may cast the vote for the lot.

### **Voting by Proxy**

5.05 Votes may be cast in person or by proxy. All proxies must be in writing, dated, signed by the Member generating the proxy and filed with the Secretary of the Association before the appointed time of any meeting to which it applies. A Member may revoke at any time by delivering a written notice of revocation to the Association.



## **ARTICLE VI BOARD OF DIRECTORS**

### **Number**

6.01 The property, business and affairs of the Association shall be managed by a Board of Directors. The number and manner of appointment of the Directors shall be determined by the Bylaws but at no time will there be less than three (3) Directors.

### **Qualification**

6.02 Each Director shall be a person entitled to cast a vote in the Association. Each Director must be a legal owner of record as reflected on title. Under no circumstances may a person serve as a Director in a designated capacity. If a Lot Owner is a trust, then the beneficiary of the trust may be a Director. If a Lot Owner is a corporation or partnership, then an officer, partner or employee of such Lot Owner may be a Director. If a Director shall cease to meet such qualifications during his or her term, he or she shall cease to be a Director and his or her place on the Board shall be deemed vacant.

### **Nomination for Election**

6.03 Nomination for election to the Board of Directors shall be made from the floor of the annual meeting of Members or at any other meeting of Members called for the purpose of electing Directors.

### **Initial Election of Directors**

6.04 Within 180 days after the filing of these Bylaws, the Initial Board of Directors shall call a meeting of the Members to elect the Directors. The Association shall give not less than ten (10) days or more than sixty (60) days notice of the meeting to each Member. The meeting may be called and the notice may be given by a Lot Owner if the Association fails to do so. The election shall be conducted in the manner specified in Paragraph 6.05.

### **Election of Directors**

6.05 The election of Directors shall take place during or following the first annual meeting of the Members of the Association in January 2011. The election shall be by ballot unless dispensed with by unanimous consent and each Member shall be entitled to cast one vote for each vacancy. There shall be no cumulative voting. Those candidates receiving the greatest number of votes cast either in person or by proxy shall elected.

### **Term**

6.06 Each Director elected by the Members shall hold office until the next annual

meeting of Members and until his or her successor shall be elected and qualified or until he or she resigns or is removed in any manner provided elsewhere herein.

### **Vacancies**

6.07 Any vacancy in the position of a Director elected by the Members of the Association shall be filled by a majority vote of the remaining Directors and any Director so elected shall hold office for a term equal to the unexpired term of the Director whom he or she succeeds.

### **Removal**

6.08 Any Director may be removed for cause by a majority vote at a special meeting of the Members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the Members at the same meeting.

### **Compensation**

6.09 A Director shall not receive any compensation for any service he or she may render to the Association as a Director provided however that any Director may be reimbursed for actual out-of-pocket expenses incurred by him or her in the performance of his or her duties.

## **ARTICLE VII MEETINGS OF DIRECTORS**

7.01 Regular meetings of the Board of Directors shall be held quarterly at the registered office at such other place designated by the Board of Directors and at such time and date as the Board shall designate. Notice of the regular meetings shall be given to each Director in person, by mail, telephone fax or e-mail at least ten (10) days prior to the meeting.

### **Special Meetings**

7.02 Special meetings of the Board of Directors may be called by the President at any time and must be called by the President or Secretary at the written request of a majority of the Directors. A notice of the meeting stating the time, place and purpose of the meeting shall be given to each Director in person, by mail, telephone, fax or e-mail at least ten (10) days prior to the meeting.

### **Notice**

7.03 All meetings of the Board of Directors shall be open to all Members of the Association and notice of such meetings shall be given at least two (2) days prior to such meeting by either mail or e-mail.



### **Waiver of Notice**

7.04 Any Director may waive notice of a meeting either before or after the meeting or may consent to the holding of a meeting without notice. Attendance by any Director at a meeting shall constitute waiver of notice of that meeting except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called.

### **Quorum**

7.05 A quorum shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Directors approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors. The joinder of a Director in the action of a meeting by signed and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

### **Minutes of Meetings**

7.07 The minutes of all meetings of the Board of Directors shall be kept in a minute book available for inspection by Lot Owners or their authorized representatives or by Directors at any reasonable time. The Association shall retain these minutes

## **ARTICLE VIII POWERS AND DUTIES OF THE DIRECTORS**

### **Specific Powers**

8.01 The Board of Directors shall have the power to exercise all powers, duties, and authority vested in the Association by the Declaration of these Bylaws. The powers and duties of the Board of Directors shall include but shall not be limited to the following:

- (1) To elect and remove officers of the Association as hereinafter provided;
- (2) To administer the affairs of the Association;
- (3) To maintain bank accounts on behalf of the Association and to designate signatories required therefore;
- (4) To pay the cost of all taxes and utilities assessed against the common areas of the subdivision that are not assessed and billed to the owners of the individual lots;
- (5) To borrow money on behalf of the Association when required in connection with the operation, care upkeep, and maintenance of the common areas; provided however, that the consent of at least 2/3 of the Members, obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required for the borrowing of any sum of money;

- (6) To use the proceeds of Assessments in the exercise of its powers and duties;
- (7) To maintain, repair replace and operate the common areas of the subdivision;
- (8) To purchase insurance on the Property and insurance for the protection of the Association and its Members and the members of the Board of Directors and Officers of the Association;
- (9) To reconstruct improvements after casualty and to further improve the common areas;
- (10) To make and amend reasonable Rules and Regulations respecting the use of and the operation of the common areas of the subdivision;
- (11) To enforce by legal means the provisions of the Declarations, the Articles of Incorporation, these Bylaws and the Rules and Regulations for the use of the common areas;
- (12) To contract for the management of the property and to delegate to such managing agent and all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the Board of Directors or the membership of the Association;
- (13) To retain attorneys and accountants to be paid only from the general fund.

### **Committees**

8.02 The Board of Directors may designate one or more committees that shall have the powers of the Board of Directors for the management of the affairs and business of the Association to the extent provided in a resolution designating such a committee. Any such committee shall consist of at least three (3) Members, at least one (1) of whom shall be a Director. Any such committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors.

### **Managing Agent**

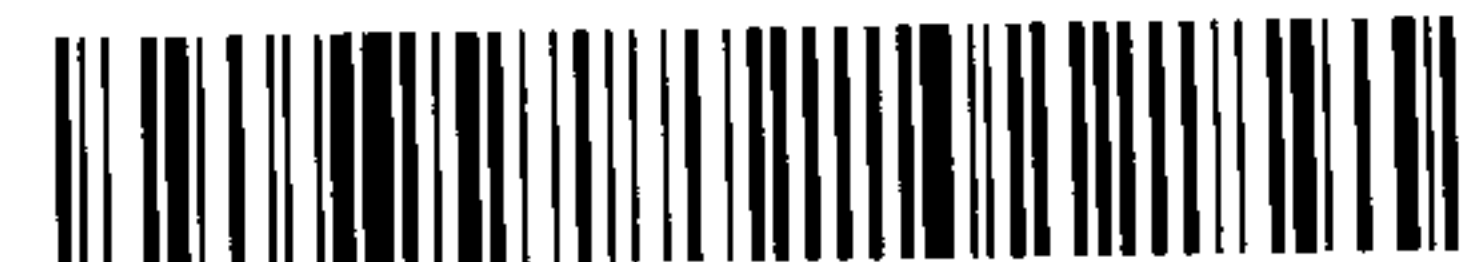
8.03 The Board of Directors shall be authorized to employ the services of a manager or managing agent who may either be a Director, Officer or employee of the Association or an independent person or firm qualified to manage the Association and affairs of the Association under the supervision of the Board. The compensation paid to any such manager or managing agent shall be in the amount established from time to time by the Board.

## **ARTICLE IX OFFICERS**

### **Election**

9.01 The executive officers of the Association shall be a President, Vice-President, Secretary and Treasurer. Any member holding such office must be a legal owner of record. The officers shall be elected annually by the Board of Directors at its first meeting





following the annual meeting of the Members of the Association. The first annual meeting for the Association shall be scheduled for January 2011. Any two or more offices may be held by the same person except the offices of President and Secretary.

### **Term**

9.02 Each Officer shall hold office for the term of one (1) year and until his or her successor shall have been appointed or elected and qualified provided that any officer may succeed himself.

### **Special Appointments**

9.03 The Board may appoint such other Officers as the affairs of the Association may require each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

### **Resignation and Removal**

9.04 Any Officer may be removed from office either with or without cause by the vote of a majority of the Directors present at any meeting. Any Officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt or at any later time specified therein and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

### **Vacancies**

9.05 A vacancy in any office shall be filled by a majority vote of the Directors at any meeting. An Officer elected to fill a vacancy shall hold office for a term equal to the unexpired term of the Officer he or she succeeds.

### **Compensation**

9.06 An Officer shall not receive any compensation for any service he may render to the Association as an Officer. However, any Officer may be reimbursed for any actual out-of-pocket expenses incurred by him or her in the performance of their duties.

### **Duties of the President**

9.07 The President, who shall be a Director, is the chief executive officer of the Association and shall have the power and duties that are usually vested in the office of President of a Lot Owner's association, including but not limited to the following purposes:

- (1) To preside over all meetings of the Members and of the Board;
- (2) To sign as President all deeds, contracts, and other instruments that have been duly approved by the Board;

- (3) To call meetings of the Board whenever he deems it necessary in accordance with the rules;
- (4) To have the general supervision, direction and control of the affairs of the Association.

#### **Duties of the Vice-President**

9.08 The Vice-President, who shall be a Director, shall have all of the powers and duties that are usually vested in the office of the Vice-President of a Lot Owner's association, including but not limited to the following powers:

- (1) To perform the duties and exercise the powers of President in the absence or disability of the President;
- (2) To assist the President in the exercise of his powers and the performance of his duties.

#### **Duties of Secretary**

9.09 The Secretary shall have the powers and duties that are usually vested in the office of Secretary of a Lot Owner's association including but not limited to the following powers:

- (1) To keep a record of all meetings and proceedings of the Board and of the Members;
- (2) To keep the seal of the Association, if any, and affix it on all papers requiring said seal;
- (3) To prepare and serve such notices of meetings by the Board and the Members required either by law or by the Bylaws of the Association;
- (4) To keep current records showing the Members of the Association together with their addresses;
- (5) To sign as Secretary all deeds, contracts and other instruments which have been duly approved by the Board if said instruments require a second Association signature.

#### **Duties of Treasurer**

9.10 The Treasurer shall be the financial officer of the Association and shall have all powers and duties that are usually vested in the Treasurer of a Lot Owner's association including but not limited to the following powers:

- (1) To receive and deposit in such bank or banks as the Board may from time to time direct, all of the funds of the Association;
- (2) To be responsible for and supervise the maintenance of books and records to account for such funds and other Association assets;
- (3) To disburse and withdraw said funds as the Board may from time to time direct and in accordance with prescribed procedures;



- (4) To prepare and distribute the financial statements for the Association.

## **ARTICLE X FISCAL MANAGEMENT**

### **Fiscal Year**

10.01 The fiscal year of the Association shall from be January 1 through December 31.

### **The Initial and Maximum Annual Assessment**

10.02 Beginning August 1, 2010, the initial annual assessment shall be \$150.00 per Lot; this amount will represent payment from August 1, 2010 through December 31, 2010. Annual assessments thereafter shall be determined after elections of Directors and Officers in January 2011. Annual assessment shall be prorated for the period of January 1 through December 31. Annual assessments shall be delinquent after March 1 of each year.

(A) From January 1, 2012, the maximum annual assessment may be increased each year by not more than five percent (5%) above the maximum annual assessment for the previous year without a vote of the membership.

(B) From and after January 1, 2012, the maximum annual assessment may be increased above five percent (5%) by a vote of at least 2/3 of a quorum at a meeting duly called for that purpose.

### **Annual Budget**

10.03 The Board of Directors must prepare an annual budget. The annual budget of the Association shall be detailed and shall show the amounts budgeted by accounts and expense classifications. Expenses shall be estimated for any of the following categories utilized by the Association; administration expenses, management fees, maintenance, rent for recreational facilities, taxes, insurance, legal and accounting fees, repairs and replacement, utilities and expenses for common areas. The budget shall also include reserve accounts for capital expenditures and deferred maintenance. The amount reserved shall be computed by means of a formula that is based on the estimated life and estimated replacement cost of each reserve item. The budget shall also set forth each Lot Owner's proposed Assessment for Common Expenses.

### **Adoption of Annual Budget**

10.04 The Board of Directors shall prepare or cause to be prepared a proposed annual budget for each fiscal year of the Association. Each Lot Owner shall receive a copy of the proposed annual budget at least ten (10) days prior to the meeting of the Board at which the budget will be considered and the meeting shall be open to all Lot Owners. Any proposals to change or amend the proposed annual budget shall be offered at this time.

The final annual budget shall be adopted by the Board at a duly noticed meeting and the Board shall furnish copies of the final annual budget to each lot Owner within sixty (60) days after the adoption.

### **Assessments**

10.05 On or before the last day of February of each year, each Lot Owner shall pay the annual assessment as approved by the Board of Directors. The Board of Directors may cause to be sent to each Lot Owner, on or before the first day of January, a statement of the Annual Assessment. However, the failure to send or receive such annual statement shall not relieve the Lot Owner of his or her obligation to make timely payment of such Annual Assessment. If the Board shall not approve an annual budget or shall fail to determine new Annual assessments for any year or shall be delayed in providing said assessment, each Lot Owner shall continue to pay the amount of his or her Annual Assessment as last determined by the Board. No Lot Owner shall be relieved of his or her obligation to pay his or her Assessment by abandonment of his or her lot or lack of use of any Common Areas.

### **Supplemental Assessments**

10.06 During the course of any fiscal year, it shall appear to the Board that the Annual Assessments, as determined by the Board, are insufficient or inadequate to cover the estimated expenses for any Common Areas for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency. Copies of the supplemental budget shall be delivered to each Lot Owner and thereupon a supplemental Assessment shall be made to each Lot Owner for his or her proportionate share of the supplemental budget.

### **Special Assessments**

10.07 Special assessments may be made in any year as provided for in sections 5.04 and of the Declaration of Protective Covenants.

### **Annual Statement**

10.08 At the annual meeting, the Board shall cause to be furnished to each Lot Owner a statement for the year so ended showing the receipts and expenditures of the Association and such other information as the Board may deem desirable.

### **Accounting Records**

10.09 In accordance with generally accepted accounting practices, the Board shall keep a record of all receipts and expenditures and a separate account for each lot showing the Assessment or other charges due, the due dates thereof, the present balance due, and any interest in common surplus. Such records shall be open to inspection by Lot Owners at reasonable times.



## **ARTICLE XI AMENDMENTS TO THE BYLAWS**

### **Notice**

11.01 Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended; new words shall be inserted in the text underlined and words to be deleted shall be lined through with hyphens; provided however that if the change is extensive, the proposed Bylaw alone shall be printed preceded by the following language: "Substantial rewording of Bylaw. See Bylaw \_\_\_\_\_ for present text."

### **Adoption**

11.02 The Board of Directors shall have the power to alter, amend or repeal any of these Bylaws or to adopt new Bylaws by the affirmative vote of the majority of all Directors; provided however, that any Bylaw adopted by the Board may be altered, amended or repealed and any new Bylaws may be adopted by the affirmative vote of at least Eighty percent (80%) of the total number of votes of all the Members. The Members may prescribe in any Bylaw adopted by them that such Bylaw shall not be altered, amended or repealed by the Board.

### **Prohibited Amendments**

11.03 No amendment may be adopted that would eliminate, modify, prejudice, abridge, or otherwise adversely affect any rights, benefits, privileges or priorities granted to the Declarant of any Institutional Mortgagee without the consent of the Declarant of the Institutional Mortgagee. No amendment that is in conflict with the Articles of Incorporation or the Declaration of Protective Covenants shall be adopted.

### **Recording**

11.04 Any amendment shall become effective when recorded in the Office of the Judge of Probate of Shelby County, Alabama.

## **ARTICLE XII RULES AND REGULATIONS**

12.01 The Board of Directors may from time to time adopt, modify amend or add to rules and regulations concerning the use any common areas within the development. However, a majority of the Members may overrule the Board with respect to any such rules and regulations or modifications thereof or any amendments or additions thereto. Copies of such rules and regulations or any amendments, additions or modifications shall be delivered to each Lot Owner not less than ten (10) days prior to the effective date

thereof. No rule or regulation that is in conflict with the Declaration of Protective Covenants shall be adopted.

### ARTICLE XIII MISCELLANEOUS

#### Construction

13.01 Wherever the context so permits, the singular shall include the plural, the plural shall include the singular and the use of gender shall be deemed to include all genders.

#### Captions

13.02 The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these Bylaws or the intent of any provision hereof.

#### Conflicts

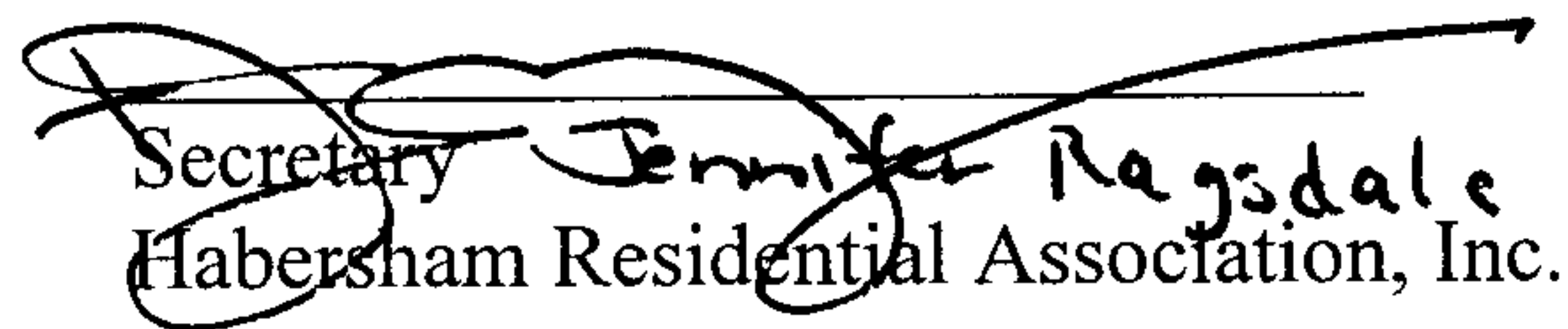
13.03 In the event of any conflict between the provisions of these Bylaws and the Declaration of Protective Covenants, the Declaration shall govern.

### ARTICLE XIV ARBITRATION

14.01 Any controversy or claim arising out of or relating to the internal operation of the subdivision among Lot Owners, the Association or their agents or assigns must be submitted to binding arbitration.

### ACKNOWLEDGMENT OF ADOPTION

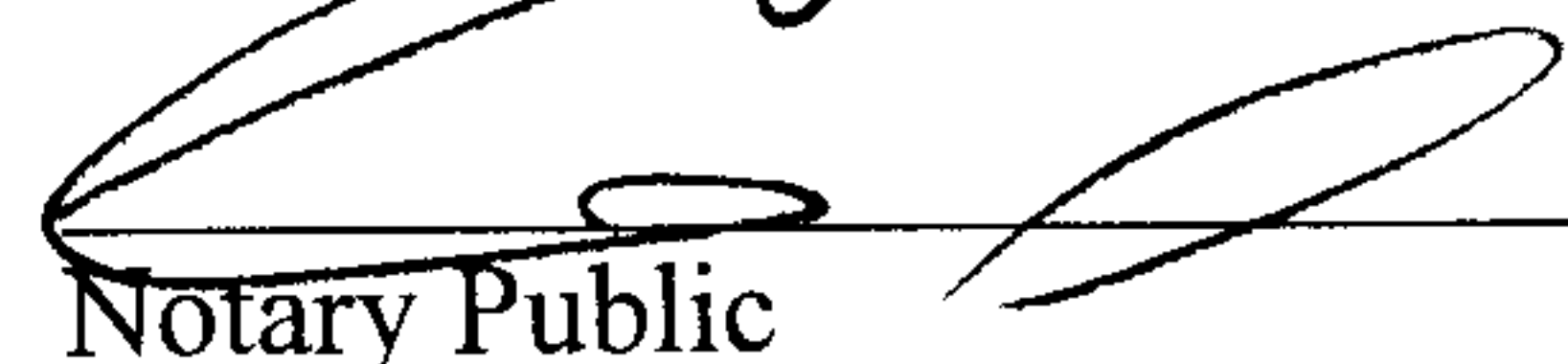
The foregoing instrument was adopted as the Bylaws of Habersham Residential Association, Inc. at the first meeting of the Board of Directors on this the 2<sup>nd</sup> day of August 2010.

  
Secretary Jennifer Ragsdale  
Habersham Residential Association, Inc.

State of Alabama     )  
County of Shelby    )

Subscribed and sworn to (or affirmed) before me this 2<sup>nd</sup> day of August, 2010.



  
Notary Public