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Shelby Cnty Judge of Probate, AL  
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# **HEATHERWOOD HOMEOWNERS'**

# **ASSOCIATION**

## **BY-LAWS**

## **2011**

**AMENDED and Restated BY-LAWS FROM 2009, 2004, 2003, 1989**

The By-Laws are hereby amended and restated in their entirety herein.

## ARTICLE I ASSOCIATION

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**SECTION 1.1 Offices.** The office of the Association shall be at the residence of the President currently in office.

**1.2 Fiscal Year.** The fiscal year of the Association shall be January 1 thru December 31.

## ARTICLE II MEMBERS

**SECTION 2.1 Qualifications.** The members of the Association shall consist of all resident homeowners/lot owners whose dues are current.

**2.2 Membership.** Membership is transferred upon the sale of a residence/lot and must be current by January 30 of the current year.

**2.3 Voting Membership.** Voting membership will be granted only to those members whose dues are paid by January 30 of the current year. A maximum of two (2) votes per household/lot will be allowed.

**2.4 Restraint Upon Alienation of Assets.** A member shall have no vested right, interest, or privilege of, in, or to the assets or funds of the Association, or any right, interest, or privilege which may be transferable or inheritable, or which shall continue after his/her membership ceases, except as an appurtenance to the member's parcel.

## ARTICLE III MEMBERS' MEETINGS

**SECTION 3.1 Place.** All meetings of the members of the Association shall be held at any place scheduled by the President.

**3.2 Membership List.** A complete list of the voting membership of the Association shall be prepared and kept by the Secretary. Such list will be available at every meeting for examination by any member. The membership list will be updated prior to each regular meeting of the Association for voting purposes.

**3.3 Regular Meetings.** Regular meetings of the members of the Association shall be scheduled by the current Board of Directors. Each Board of Directors upon election will establish calendar dates. Regular meetings of the members are to be held twice a year.

**3.4.1 Special Meetings:** Special meetings of the members may be called at any time by the President, a majority of the Board Members, or by twenty (20) voting members of the Association. Requests for special meetings shall be made in writing to the President and shall state the purpose of the proposed meeting. A record of the request shall also be sent to the secretary.



**3.4.2 Business transacted** at all special meetings shall be confined to the items stated in the notice thereof.

**3.5 Notice.** Written notice of every meeting, special or regular, of the Association stating the date, hour and place shall be mailed to each member at such member's address as shown on the membership list at least ten (10) days prior to such meeting unless waived in writing.

**3.6 Waiver of Notice.** Whenever any notice is required to be given to any member under the provision of the Alabama Constitution, Alabama Non-Profit Corporation Act, Articles of Incorporation, or By-Laws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein shall be equivalent to the giving of such notice.

**3.7 Participation.** Only members shall be entitled to participate in any meeting of the Association. Members whose dues are paid by January 30 or who have been given a complimentary membership are entitled to vote.

**3.8 Proxies.** At any meeting of the members of the Association, the voting member shall be entitled to vote in person or by proxy. A proxy form obtained from the secretary shall be valid if it is filed with the Secretary prior to a meeting being called to order. A proxy shall not be valid unless it is granted to a person who is a member of the Association. No person may cast more than one proxy vote. No proxy vote may be cast on behalf of a voting member who is present at a meeting.

**3.9 Vote Required to Transact Business.** , The holders of the majority (51%) of voting rights, present at the meeting or voting by proxy prior to the meeting, shall decide any question brought before the meeting. If the question is one which requires more than a majority vote by express provision of any statute, Articles of Incorporation or these By-Laws, the express provision shall govern and control the number of the votes required. In all cases where reference is made to percentage of the vote of the members for the purpose of determining the vote thereof, the percentage stated shall mean the percentage of the qualified voters.

**3.10 Quorum.** Fifty-one percent (51%) of the eligible voters present in person or by proxy whose dues are current shall constitute a quorum.

## **ARTICLE IV DIRECTORS**

**SECTION 4.1 Numbers.** The affairs and business of the Association shall be managed by a Board of Directors, consisting of not less than six (6) no more than eleven (11) directors including an Ex-officio position.

**4.2 Directors.** Directors with the exception of the President shall be elected annually by ballot at the regular May meeting. If there is but one (1) nominee for a position, the election may be by voice vote. Majority vote shall elect.

**4.2.1** A Vice-President shall be elected by the membership each year. In addition, four (4) Directors will be elected to the Board on an annual basis.

**4.2.2** The immediate past Vice-President shall serve as President for the current year.

**4.2.3** The immediate past President shall become the Ex-officio for the present year.

**4.3 Appointment of Officers.** The Board of Directors will present the slate of officers at the general meeting to be elected.

**4.4 Term.** Directors shall be elected to serve a two (2) year term. Directors will rotate off the Board on a staggered basis.

**4.4.1** The Vice-President will serve a total of three (3) years as Vice-President, President, and Ex-Officio.

**4.4.2** The President will serve a total of two (2) years as President and Ex-Officio.

**4.5 Term Restrictions.** No household may occupy more than one position as either officer or director.

**4.6 Election of Directors.** Election of Directors shall be conducted in the following manner:

**4.6.1** The President's position will not be an elected position. The previous year's Vice-President will automatically rotate to the President's position.

**4.6.2** A Vice-President and four (4) Directors will be elected on an annual basis.

**4.6.3** A nominating committee of three (3) members shall be appointed by the President with the approval of the Board of Directors not less than forty-five (45) days prior to the election meeting. The committee shall nominate one (1) person for each opening. The nominating committee shall send the list of nominees by mail to the active members thirty (30) days prior to the election. Nominees for Vice-President must be submitted in writing to the President thirty (30) days prior to the election. Verification of a nominee's consent/commitment to serve if elected will be made by the nominating committee.

Nominations for the four (4) Directors positions will be accepted from the floor if the nominee has given their consent. All nominees shall have given their consent to serve if elected.

**4.6.4** The election shall be by secret ballot unless there is but one (1) nominee for an opening. Nominees receiving the greatest number of votes cast shall be elected to the Board.

**4.7 Removal and Vacancies**

**4.7.1** Directors may be removed for cause by an affirmative vote of a simple majority of the Directors. No Director shall continue to serve on the Board if, during his term of office, his membership in the Association shall be terminated for any reason whatsoever including non-



payment of dues and/or failure to attend (2) two or more consecutive Directors meetings without just cause. Just cause having been previously approved by the President.

**4.7.2 Vacancies.** If any Director or officer position becomes vacant by death, resignation, and disqualification or otherwise, the remaining Directors may choose a successor or successors by a majority vote. The successor(s) shall hold office for the unexpired term and may be re-elected to serve a two (2) year term.

**4.8 Power and Duties of Directors.** All directors shall assume their duties immediately following the election and shall serve until their term ends or a successor is appointed.

**4.8.1** All of the powers and duties of the Association under the Alabama Law shall be exercised by the Board of Directors, or its delegate, subject only to approval by the members when such approval is specifically required. The powers and duties of the Directors shall include but are not limited to the following:

**4.8.2 Assess/Disburse.** Dues will be collected from members on an annual basis to pay expenses incurred by the Association in carrying out the objects and purposes of the Association. The proceeds of the dues will be used to exercise the duties of the Association in keeping with the guidelines of the Approved Budget.

**4.8.3 Adherence.** To enjoin and encourage members of the Association to adhere to the Protective Covenants applicable to the Heatherwood subdivision.

**4.8.4 Employ.** The Board of Directors shall employ or contract with service contractors for carrying out the objectives and purposes of the Association.

**4.8.5 Annual Statement.** The Board will present a full and clear statement of the business and condition of the association and an accounting of the financial transactions of the past year at the annual meeting of the members.

**4.8.6 Approved Budget.** Budget must be presented annually to the membership at the general meeting and approved by a majority of the members present. Budgeted issues requiring the expenditure of \$3,000.00 or more will require the approval of the membership majority present at the General Meeting and should be in compliance with the guidelines of the Approved Budget.

**4.8.7 Compensation.** The Directors shall not be entitled to any compensation for service as Directors.

## **ARTICLE V DIRECTORS' MEETINGS**

**SECTION 5.1 Organizational Meetings.** The first meeting of each new Board elected by the members shall be held immediately upon adjournment of the meeting at which they were elected or as soon thereafter as may be practicable.



**5.2 Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each director, personally, by mail, or email at least three (3) days prior to the day named for such meeting.

**5.3 Special Meetings.** The President upon five (5) days notice to each Director, may call special meetings of the Board. The President or Secretary shall call special meetings in like manner and on like notice upon written request of three (3) Directors.

**5.4 Waiver of Notice.** No notice of a Board meeting shall be required if the Directors meet by unanimous written consent. The Directors may, by resolution duly adopted, establish regular monthly, quarter-annual, or semi-annual meetings. If such resolution is adopted, notice of such regular meetings is required. Any required notice may be waived in writing signed by the person entitled to such notice whether before or after the time stated therein.

**5.5 Quorum.** A quorum at a Directors' meeting shall consist of a majority of the entire Board. The acts approved by majority of those present shall constitute the act of the Board, except when approval by a greater number of Directors is required by statute or by these By-Laws.

**5.6 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.

**5.7 Joinder in Meeting By Approval of Minutes.** The joinder of a Director in any action taken at a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such Director for the purpose of determining approval.

**5.8 Presiding Officer.** The presiding officer of a Directors' meeting shall be the President of the Association or a Vice-President in his/her absence.

## ARTICLE VI OFFICERS

**SECTION 6.1 Officers.** The executive officers of the Association shall include President, Vice-President, Treasurer, and Secretary. Each executive officer, with the exception of the President shall be elected at the annual meeting. Any two (2) or more of said offices may be held by one person except that the President shall not also be the Secretary or an Assistant Secretary of the Association. The Board may elect more than one Vice-President.

**6.2 Qualification.** No person shall be entitled to hold office except an active member current in his or her dues.

**6.3 Term.** The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by an affirmative vote of the majority of the Members present at a meeting of the Association, or by a majority vote of the current Board of Directors.



**6.4 President.** The President shall be the chief executive officer of the Association, he/she shall preside at all meetings of the members and Directors, shall also be a member of all standing committees, shall have general management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect.

**6.4.1** The President shall have an available discretionary fund to transact business on behalf of HHA not to exceed \$300.00 per annum. Funds expended must be reported to the Directors' meeting. Replacement of the fund will become automatic each year at the annual meeting.

**6.5 Secretary.** The Secretary shall keep the minutes of the members' meetings and of the Board of Directors' meetings in one or more books provided for that purpose. Resolutions shall be maintained in one such minute book.

**6.5.1** The Secretary shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.

**6.5.2** The Secretary shall be custodian of the association records, except those of the Treasurer.

**6.5.3** The Secretary shall keep a register of the post office address of each member, which shall be furnished to the Secretary by such member.

**6.5.4** In general, the Secretary shall perform all duties incident to the office of the Secretary and such other duties as may be assigned to him/her by the President or by the Board of Directors.

**6.6 Vice-President.** The Vice-President shall be vested with all the powers and required to perform all the duties of the President in his/her absence, and such other duties as may be prescribed by the Board of Directors.

**6.7 Treasurer.** The Treasurer shall keep the full and accurate financial records and books of account of the Association in accordance with good accounting practices, including detailed, accurate records of the receipts and expenditures in books belonging to the Association; and shall perform all other duties related to the office of Treasurer. The records, books of account, and the vouchers authorizing payments, shall be available for examination by a member of the Association at convenient hours of weekdays. The Treasurer shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated by the Board of Directors or these By-Laws.

**6.7.1** The Treasurer shall disburse the funds of the Association as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and Directors at the regular meetings of the Board, an account of all his/her transactions as Treasurer, and of the financial condition of the corporation.

**6.7.2** The Treasurer shall see that a review of the Treasurer's books is conducted at the end of the year. The review shall be conducted by two members of the association, appointed by the President, with the Treasurer. The review shall include the following:

1. Review of actual expenses to budget requesting information on large variances and ensuring that the end result plus savings equals cash in the bank.
2. Calculate gross revenue from number of members and compare to actual.
3. Make sure the bank statements have been reconciled each month.

The final report shall be kept in the Treasurer's file.

**6.8 The Ex-Officio.** The past President from the preceding year will serve as Ex-Officio in the current year, and shall consult with the Directors as needed. The Ex-Officio holds no voting powers, except in case of a tie.

**6.9 Vacancies.** Vacancies shall be filled as designated in Article 4.7.2.

**6.10 Resignations.** Any Director or other officer may resign his/her office at any time. Such resignation shall be made in writing, and shall take effect at the time of its receipt by the Association, unless a time is fixed in the resignation, and then from that date. The acceptance of a resignation shall not be required to make it effective.

**6.11 Compensation.** The Directors shall determine the compensation of all employees. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association.

## **ARTICLE VII**

### **APPROVAL BY THE VOTING MEMBERS**

**SECTION 7.1** The Association shall act through its Board of Directors. The following matters in addition to others which may be required by law shall require an affirmative vote of the voting members of the Association:

<u>Matters to be Approved</u>	<u>Approval Required</u>
(1) Amendment of Articles of Incorporation	2/3 of the Membership
(2) Election of Directors	Greatest Number of Votes
(3) Amendment of the By-Laws, except for a change in the amount of dues as outlined in (4) below.	Majority of the Membership
(4) Annual Dues \$ 240.00 per Member Residence/Lot not to be increased or decreased, except as provided for in Section 8.2.1.	Majority of the Membership



## ARTICLE VIII DUES

**SECTION 8.1** Membership in the Association is contingent upon prompt payment of dues assessed by the Association.

Commencing **March 15, 1989**, and no later than January 30 of each year thereafter, each member household/lot owner shall pay to the Association, in advance, the dues levied by the Association, and such payments shall be used by the Association to create and continue a fund to be used by the Association as hereafter stated.

The annual dues may be adjusted from year to year by the Board of Directors, but in no event shall the amount exceed the level established in Section 8.2.1 without approval of a Majority of the members.

**8.2 Dues.** Annual dues may be used for any expenses necessary to maintain the normal operation of the Association, such as postage, or for other expenses deemed by the Board of Directors to benefit the residents of this community.

**8.2.1** Annual dues of \$240.00 may be increased or decreased by 20% (one time each) through a vote of the majority of the Board of Directors. Any further increase or decrease must be approved by the majority of the Members. Funds shall be used exclusively for providing for the common good and general welfare of the people of the Association and should be in compliance with the guidelines of the Approved Budget as outlined in Article 4.8.6.

## ARTICLE IX LIABILITY

**SECTION 9.1** The Association assumes no responsibility for injuries sustained by or damages resulting from the acts or omissions of members or contractors of the Association. The Association, however, agrees to indemnify and hold harmless directors and officers from claims arising out of their director or officer activities.

## ARTICLE X CONDUCT OF MEETING

**SECTION 10.1** The meeting of the members and the Board shall be governed by Robert's Rules of Order, Newly Revised.

## ARTICLE XI PARLIAMENTARIAN

**SECTION 11.1 Parliamentarian.** The Parliamentarian shall be appointed to act as Parliamentarian at all meetings of the Board of Directors of the Association and a

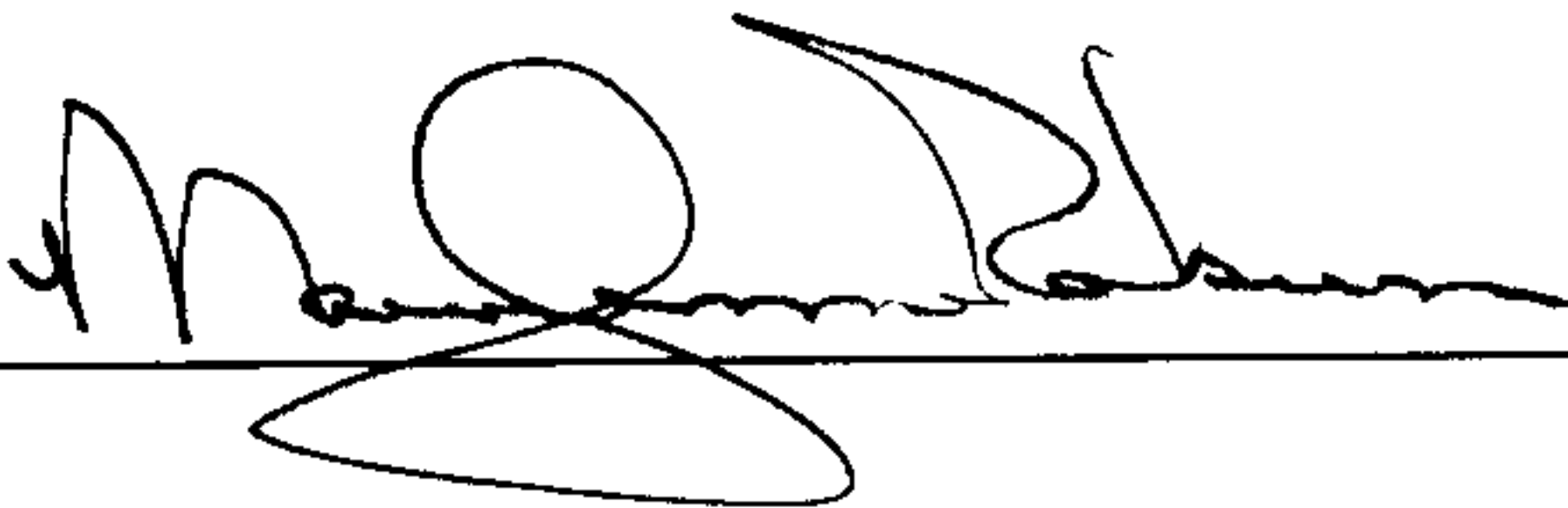
Parliamentarian shall be appointed to act as Parliamentarian at all meetings of the members. He/She shall see that all meetings are conducted in an orderly manner in accordance with Article X of the By-Laws.

## ARTICLE XII

These By-Laws may be amended when necessary by a majority of the Membership. Proposed amendments must be submitted to the Secretary and presented at the regular General meeting.

In Witness Whereof, the undersigned has fully executed this First Amendment as of the date first above written.

Heatherwood Homeowners Association, Inc.

By: 

Its: President

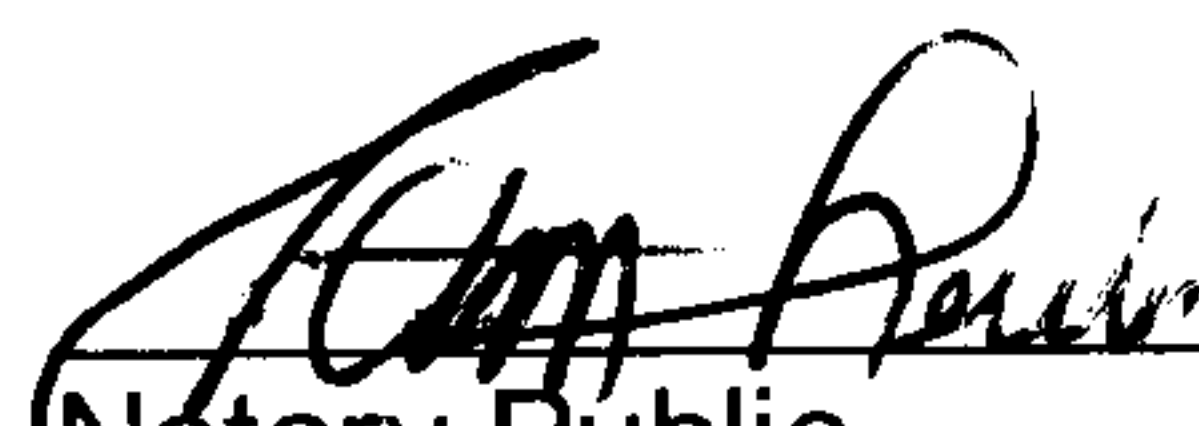
The State of Alabama

Shelby County

I, the undersigned, a Notary Public, in and for said State and County, hereby certify that Mary Anna Raburn, whose name as President of Heatherwood Homeowners Association, Inc., and Alabama non-profit 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, she, as such officer and with full authority, executed the same voluntarily for an as the act of said corporation.

Given under my hand and seal of office this 19<sup>th</sup> day of JULY, 2011.



  
Notary Public  
My commission Expires: 4/17/2013