

STATE OF ALABAMA

HOMEOWNERS' ASSOCIATION (HOA)  
DOMESTIC NONPROFIT CORPORATION  
CERTIFICATE OF FORMATION



20200909000400890 1/19 \$166.00  
Shelby Cnty Judge of Probate, AL  
09/09/2020 10:08:39 AM FILED/CERT

**PURPOSE:** In order to form a Homeowners' Association (hereinafter HOA) under Title 35, Chapter 20 as a Nonprofit Corporation under Section 10A-1-3.05 and 10A-3-3.02 of the Code of Alabama 1975 this Certificate Of Formation, all required attachments, and the appropriate filing fees must be filed with the Office of the Judge of Probate in the county in which the development, or any part thereof, is located. **The information required in this form is required by Title 10A and Title 35.**

(For County Probate Office Use Only)

**INSTRUCTIONS:** Mail three (3) signed copies of this completed form and the appropriate filing fees to the Office of the Judge of Probate in the county in which the development or any part thereof, is located. Contact the Judge of Probate's Office to determine the county filing fees. **Make a separate check or money order payable to the Secretary of State for the state filing fee of \$100.00** for standard filing and the Judge of Probate's Office will transmit the fee along with a certified copy of the Certificate to the Office of the Secretary of State within 10 days after the Certificate is filed. You may pay the Secretary of State fees by credit card if the county you are filing in will accept that method of payment. Your entity will not be indexed if the credit card does not authorize and will be removed from the index if the check is dishonored (\$30.00 fee).

**The information completing this form must be typed (for your convenience the information is fill-able on this computer form on the website above).**

1. The name of the HOA: Rustic Oak Estates Homeowners' Association, Inc.
2. **A copy of the Name Reservation certificate from the Office of the Secretary of State must be attached.**

3. This is a nonprofit corporation which (MUST check one):

☒ has Members or ☐ has no Members

This form was prepared by: (type name and full address)

Tommy B. Majors IV, Esq.  
The Majors Law Firm, LLC  
3684 Cahaba Beach Rd  
Birmingham, AL 35242

(For SOS Office Use Only)

**DOMESTIC HOA CERTIFICATE OF FORMATION**

4. The name of the Registered Agent: Wes Davis

The entity ID # of the registered agent if the agent is an entity/organization/business – AL ID # \_\_\_\_\_ - \_\_\_\_\_

**Satisfies requirement that entity/organization must be a registered business in Alabama per 10A-1-5.31.**

5. Street (**No PO Boxes**) address in Alabama of Registered Agent (must be where registered agent is located):

120 Bishop Circle, Pelham, AL 35124

Mailing address of Registered Agent in Alabama (if different from street address): \_\_\_\_\_

6. Purpose for which corporation is formed: Homeowners' Association – Nonprofit Corporation; the purpose includes the transaction of any lawful business for which HOAs may be incorporated in Alabama under Title 35, Chapter 20 of the Code of Alabama.

7. Period of duration shall be perpetual unless stated otherwise by an attached exhibit.

8. The name of the Incorporator: Wes Davis

Address of Incorporator: 120 Bishop Circle, Pelham, AL 35124

**Attach a listing if more Incorporators need to be added (type "see attached" in the name line).**

9. The number of Directors constituting the initial Board of Directors is 3. The initial Directors names and addresses must be listed in this Certificate of Formation.

Director's Name: Wes Davis

Address of Director: 120 Bishop Circle, Pelham, AL 35124

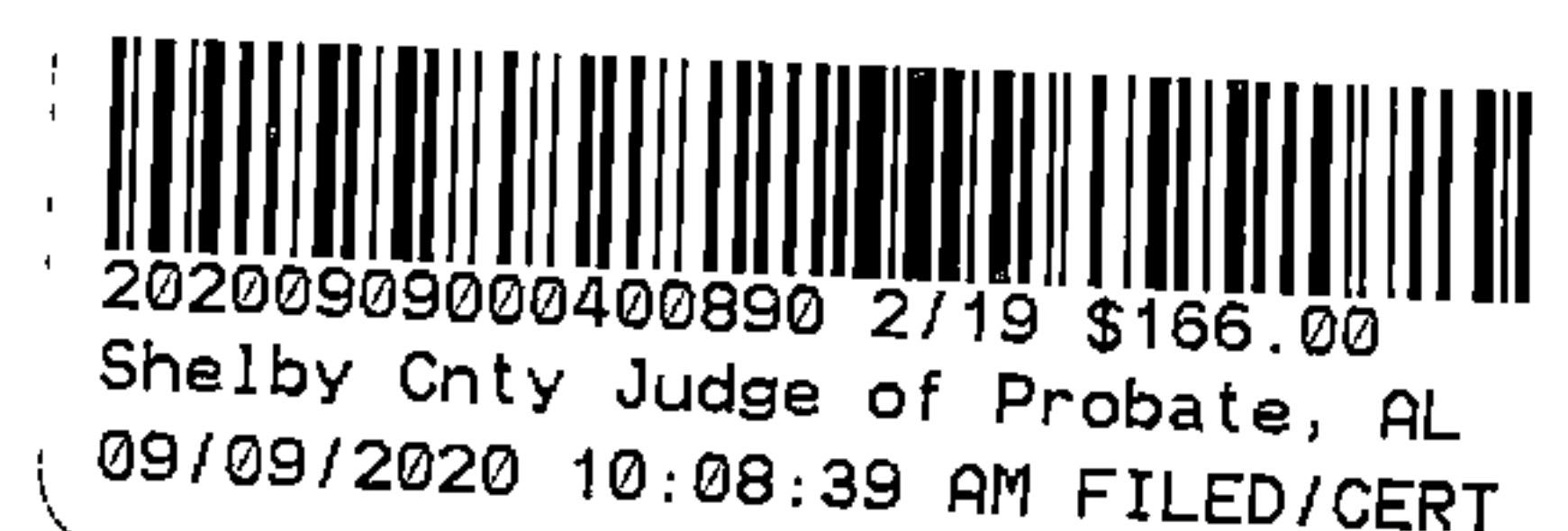
Director's Name: Connor Farmer

Address of Director: 120 Bishop Circle, Pelham, AL 35124

Director's Name: Tony DeJohn

Address of Director: 120 Bishop Circle, Pelham, AL 35124

**Attach listing if more Directors need to be added (type "see attached" in the name line for the first Director on this form).**





**DOMESTIC HOA CERTIFICATE OF FORMATION**

**10. REQUIRED ATTACHMENTS per Title 35, Chapter 20 - This organization document shall provide for all of the following:**

- 1} methods of efficient communication with the members of the association unless a different method is required by Chapter 3, Title 10A, Code of Alabama 1975. **On an attachment list all types of communication such as emails, newsletters, meetings, posted signage, correspondence, etc.. Attach any section of the governing documents that pertains to required communication with the members.**
  - 2} rules and regulations for the conduct of any meetings of the association - **Attach the appropriate section of the bylaws or governing documents detailing the conduct of meetings, if any.**
  - 3} the compilation, organization, and maintenance of full and complete financial records of the association available to any member at a reasonable time and place upon the payment of reasonable associated costs - **Attach an example of the financial records that will be made available to members upon request and payment.**
  - 4} reasonable rules and regulations for the use, maintenance, repair, replacement, or modification of any common areas, if any, including penalties for violations - **Attach copies of the appropriate rules and regulations.**
  - 5} power to grant easements, leases, licenses, and concessions through or over the common areas, if any. **Attach a copy of the document(s) granting these powers.**
  - 6} statements regarding the payment of dues and assessments to be provided to any person having an interest, upon the payment of reasonable associated costs – **Attach the appropriate statement and/or any document(s) requiring the statements.**
  - 7} preparation and submission of the annual budgets of the association to the members – **Attach section of governing documents regarding annual budgets and reporting of same.**
  - 8} **The undersigned certifies that the Homeowners' Association will do any other act a nonprofit is required to do under the law.**
11. In addition to the required items in item 10 of this document, **the organizational documents of a Homeowners' Association may provide for the following – CHECK ALL THAT APPLY TO THIS HOA:**

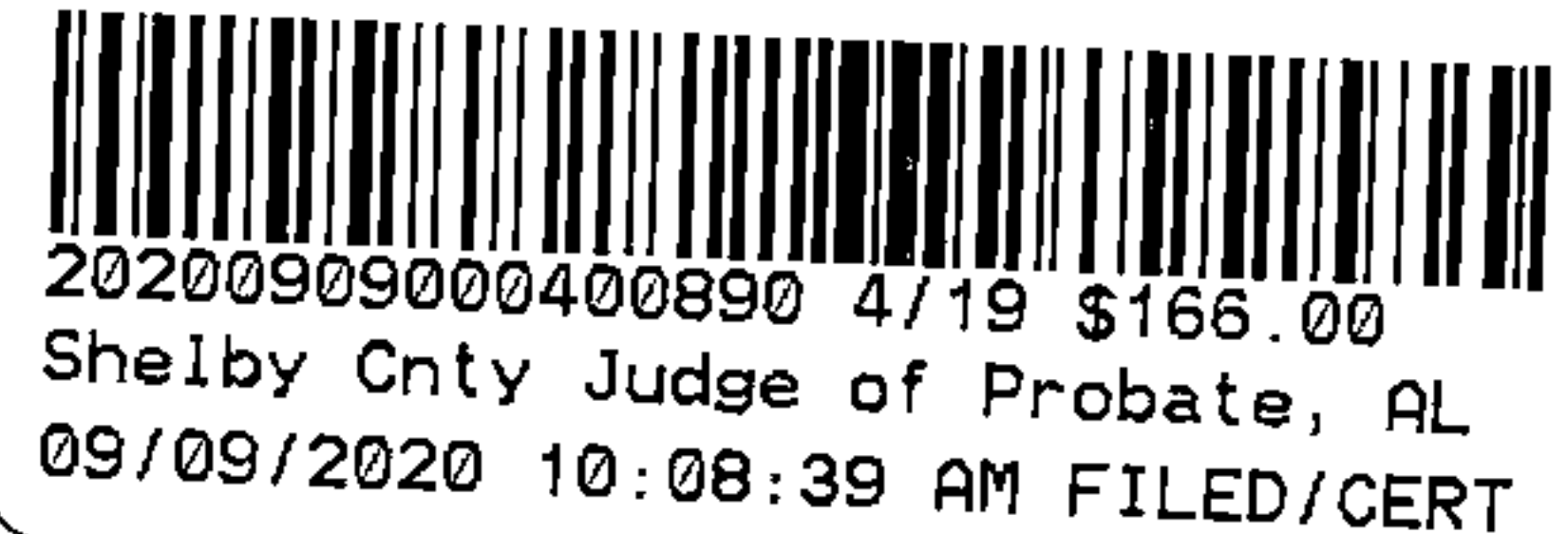
- ☐ Indemnification and insurance for the association, its officers, and directors
- ☐ Fidelity bonds for any person or entity having custody or control of any funds of the association
- ☐ Periodic audits of the financial records of the association
- ☐ Power to acquire real and personal property for the benefit of the association and its members
- ☐ Power to hire and discharge managing agents and other employees, agents, and independent contractors



## DOMESTIC HOA CERTIFICATE OF FORMATION

12. The undersigned certify that the homeowners' association provided for by declaration and subject to the Alabama Homeowners' Association Act shall be formed by this filing prior to the conveyance of any lot in the development by the declarant in accordance with the requirements of Title 35, Chapter 20.
13. Unless an attachment to this Certificate of Formation provides that a change in the number of directors shall be made only by amendment to the Certificate of Formation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the Certificate of Formation is inconsistent with a bylaw, the provision of the Certificate of Formation shall be controlling. [Per 10A-3-3.02(c)]
14. If a conflict exists between the declaration and the governing documents of a homeowners' association, the declaration prevails, except to the extent that the declaration is inconsistent with the Alabama Homeowners' Association Act.
15. The filing of the limited liability company is effective immediately on the date filed by the Judge of Probate or at **the delayed filing date** (cannot be prior to the filing date of the Judge of Probate) specified in this filing. [10A-1-4.12] If a delayed effective date is not desired do not complete the information in this item.

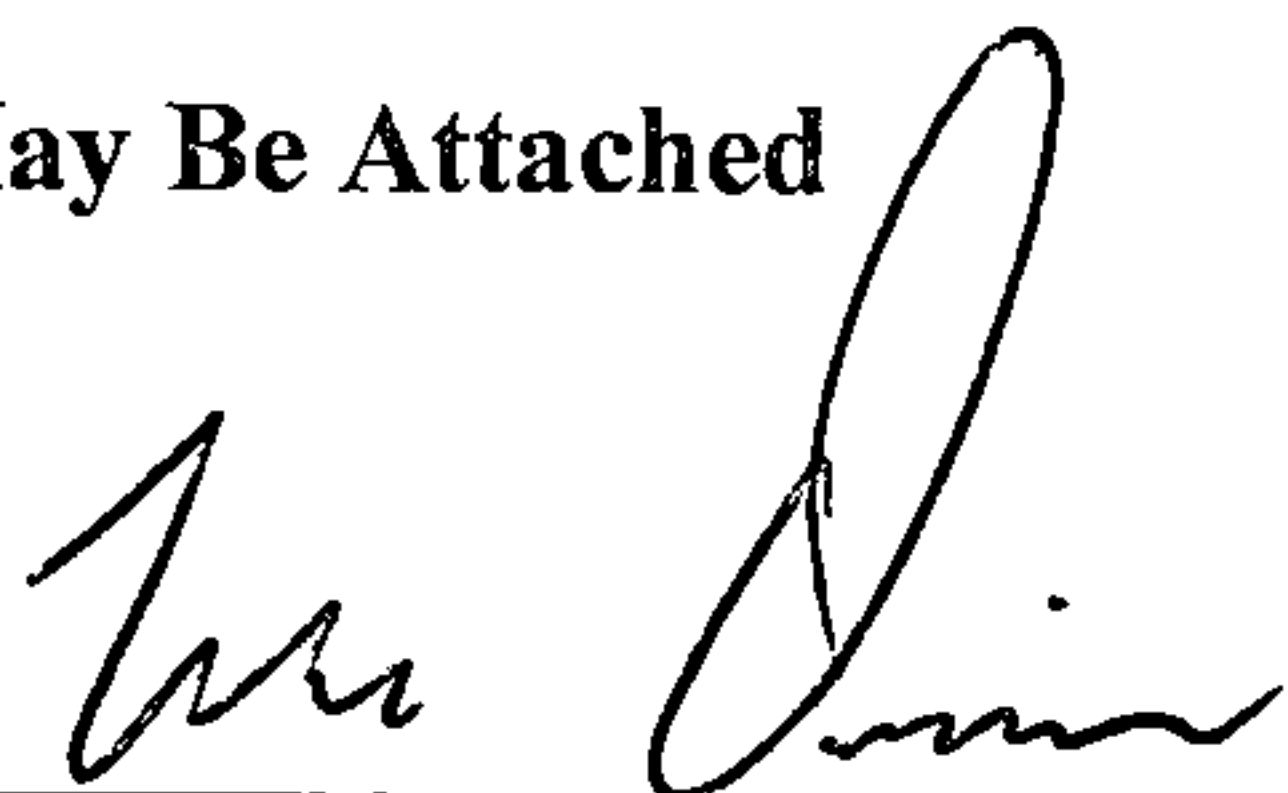
The undersigned specify \_\_\_\_ / \_\_\_\_ / \_\_\_\_ as the delayed effective date (must be on or after the date filed in the office of the county Judge of Probate, but no later than the 90th day after the date this instrument was signed) and the time of filing to be \_\_\_\_ : \_\_\_\_ ☐ AM or ☐ PM. (cannot be noon or midnight – 12:00)



- ☐ Attached are any other provisions that are not inconsistent with law relating to organization, ownership, governance, business, or regulation of the internal affairs of the HOA nonprofit corporation, including any provisions for distribution of assets on dissolution or final liquidation.

### Additional Signatures May Be Attached

9, 9, 2020  
Date (MM/DD/YYYY)

  
Signature as required by 10A-1-3.04

Wes Davis  
Typed Name of Above Signature

Director / Incorporator  
Typed Title/Capacity to Sign under 10A-1-3.04

**BYLAWS of**  
**RUSTIC OAK ESTATES HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I**

**NAME, REGISTERED AGENT and DEFINITIONS**

- A. **NAME**: The name of the Association shall be the Rustic Oak Estates Homeowners' Association, Inc. (hereinafter referred to as the "Association").
- B. **REGISTERED AGENT**: The registered agent shall be Wes Davis, 120 Bishop Circle, Pelham, AL 35124, unless and until otherwise relocated.
- C. **DEFINITIONS**: The words used in these Bylaws shall have the same meaning as set forth in or compatible with that recorded document identified as the Declaration of Protective Covenants for Rustic Oak Estates A Residential Subdivision, amended, recorded on 20 July 2020 as Instrument Number 20200720000302030 in the Office of the Judge of Probate of Shelby County, Alabama (Said Declaration, as amended, renewed or extended front time to time, is hereinafter sometimes referred to as the "Declaration"), as shown on the recorded residential plats and corrections thereof unless the context shall prohibit such interpretation, and shall otherwise be interpreted in accordance with their common meaning and in light of their context.

**ARTICLE II**

**ASSOCIATION: MEMBERSHIP**

- A. **MEMBERSHIP**: The Association shall have one (1) class of voting membership. The voting members will be the fee owners of each residential lot within the residential portions of Rustic Oak Estates. Each said fee owner is subject to the Declaration as reflected on the various recorded plats and corrected plats for the residential portions of Rustic Oak Estates. Said members shall have such voting rights and such other rights and responsibilities as are more fully set forth in the Declaration, the terms of which, pertaining to membership, are specifically incorporated herein, by reference, except as further restricted herein or in the Articles of Incorporation for this Association.
- B. **CHANGE OF MEMBERSHIP**: Change of membership in the Association shall be established by recording in the Office of the Judge of Probate of Shelby County, AL, a deed or other instrument establishing record title to a lot within said subdivision, subject to the aforementioned Declarations and written notice to the Association of such change in title ownership. The owner designated by such instrument thereby becomes a member of the Association, and the membership of the prior owner is terminated. There shall be only one ownership vote for each respective lot, regardless of the number of individual owners reflected in said title document.



- C. APPROVAL OR DISAPPROVAL OF MATTERS: Whenever the decision of the Lot Owners is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if at an Association meeting.

### **ARTICLE III**

#### **MEETINGS, QUORUMS, VOTING RIGHTS and PROXIES**

- A. PLACE OF MEETINGS: Meetings of the Association shall be held at such suitable place convenient to the voting members as may be designated by the Board of Directors.
- B. ANNUAL MEETINGS: The first required meeting of the Association, whether a regular or special meeting, shall be held within 360 days from the recording of these Bylaws.

The first required meeting of the Association, whether a regular or special meeting, shall be held within 360 days from the date as referred to above. Meetings of the Association shall be of the voting members or their alternates, as provided herein. There shall be an annual meeting at a time and place set by the Board, the same to occur within thirteen (13) months after the initial meeting. Subsequently, annual meetings of the voting members shall be held annually, within thirty (30) days of the same day of the same month of each year thereafter, at an hour to be set by the Board. Subject to the foregoing, the annual meetings of the Association shall be held at a date, place and time as set by the Board of Directors.

- C. SPECIAL MEETINGS: The President may call special meetings. In addition, it shall be the duty of the President to call special meetings of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by voting members representing at least twenty five percent (25%) of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose therefore. No business shall be transacted at a special meeting except as stated in the notice thereof.
- D. NOTICE OF MEETINGS: A written or printed notice stating the place, day, and hour of any meeting of the Association shall be delivered, either personally or by mail, to each voting member entitled to vote at such meeting, not less than ten (10) days nor more than thirty (30) days before the day of such meeting, by or at the direction of the President and/or the Secretary of the Association. If mailed, the notice of such meeting shall be deemed to be delivered when deposited in the United States Mail addressed to the voting member at his address as it last appeared on the records of the Association, with postage thereon prepaid.
- E. WAIVER OF NOTICE: Waiver of notice of meetings of the Association shall be deemed the equivalent of proper notice. Any voting member may, in writing, waive notice of any meeting of the voting members, before or after such meeting. Attendance at a regular or special meeting by a voting member shall be deemed a waiver by such member, of notice



of the time, date and place thereof, unless such voting member specifically objects to the lack of proper notice at the time said meeting is called to order.

- F. ADJOURNMENT OF MEETINGS: If any meeting of the Association cannot be held because a quorum is not present, a majority of the voting members who are present at such meeting, either in person or by their official alternate, may adjourn the meeting to a time not less than ten (10) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to the voting member in the manner prescribed for notice for regular meetings.

The voting members present at a duly called or held meeting at which a quorum is present, may continue to do business until adjournment, notwithstanding the withdrawal of enough voting members to result in less than a quorum being present, provided that at least twenty percent (20%) of the total votes of the Association remain present, in person, and provided further that any action taken shall be approved by at least a majority of the voting members required to constitute a quorum.

- G. VOTING: The voting and membership rights of the members shall be set forth in these Bylaws, the Articles of Incorporation and the Declaration, and such voting and membership rights provisions are specifically incorporated herein as though fully and completely set out. Fee ownership of a residential lot entitles the owner thereof to the rights of one voting membership. Therefore a member is entitled to one vote for each lot owned in Rustic Oak Estates. No lots are subject to the regulations or requirements, including assessments, of the Homeowners' Association until a residence is completed on subject lot and has been conveyed by the builder to a third party or occupied by the builder as a Principal residence. In the event a lot is owned by multiple owners, said multiple ownership all only be entitled to participate in or vote on any questions considered and acted upon at any meeting, in which case the voting member shall be designated by the various owners in writing and presented to the Secretary/Treasurer of the Association. In the absence of such designation, the first owner who shall register as representing such lot shall be recognized as the designated representative.
- H. PROXIES: Voting members may not vote by proxy and may only vote in person; notwithstanding, the voting member may name his or her spouse or another co-owner of the Property as his or her alternate voting member in the event the voting member cannot be present at a meeting. A member shall name his or her official alternate in writing to be filed with the Secretary/Treasurer of the Association prior to or at a particular meeting, and the same shall be reflected on the official records of the Association. Proxies are valid only for the particular meeting designated therein.
- I. MAJORITY: As used in these Bylaws the term "Majority" shall mean that number of votes, lot owners, or official alternates as the context may indicate, totaling more than



fifty percent (50 %) of the total number of votes of qualified membership, attending said meeting wherein a vote is taken, so long as a quorum is present originally and so long as other provisions of these Bylaws are adhered to.

J. QUORUM: Except as otherwise provided in these Bylaws, the Articles of Incorporation or the Declaration, the presence, in person or by official alternate, of voting members representing one-third (1/3) of the Association shall constitute a quorum at all meetings of the Association.

K. CONDUCT OF MEETINGS: The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted at said meetings, as well as recording of all other business transactions occurring thereafter. The order of business for the annual meetings and other meetings, whenever practical, shall be:

1. Call to order.
2. Calling of the roll.
3. Proof of notice of meeting or waiver of notice.
4. Reading and disposal of any unapproved minutes.
5. Reports of officers.
6. Reports of committees.
7. Election of Directors.
8. Unfinished business.
9. New Business.
10. Adjournment.

L. ACTIONS WITHOUT A MEETING: Any action required by law to be taken at a meeting of the Association, or any action which may be taken at a meeting of the Association, may be taken without an official meeting if a consent, in writing, setting forth the action so taken shall be signed by all of the voting members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Association.

#### **ARTICLE IV**

##### **BOARD OF DIRECTORS: NUMBER, POWERS and MEETINGS**

A. COMPOSITION AND SELECTION: The affairs of the Association shall be governed by a Board of Directors. Directors must be lot owners or authorized representatives of lot owners within the subdivision and members of the Association, provided, however, a person and his or her spouse may serve on the Board at the same time.

B. NUMBER OF DIRECTORS: The number of directors of the Association, who shall be elected or appointed, as the case may be, but shall not be less than three (3) nor more than seven (7). All other elected directors must be members of the Association. The Board of



Directors of the Association may, by resolution of a majority of the existing directors, change the number of directors from time to time.

C. NOMINATION OF DIRECTORS: Nominations for election to the Board of Directors shall be made by any voting member and shall be made to the President and/or to the Secretary of the Association at least ten (10) days prior to the annual meeting where said directors are to be elected, or ten (10) days prior to any special meeting where a director is to be elected to fill a vacancy on said Board. Nominations shall not be permitted from the floor, at any meeting. Any candidate for director may have access to the mailing list of the Association for the purpose of communicating his or her qualifications to voting members and to solicit their votes, upon request for same to the Secretary of the Association.

D. ELECTION AND TERM OF OFFICE: The term of office of each elected director shall be three (3) years, except that the original elected director(s) shall be elected for one, two, and three-year staggered terms respectively, and thereafter, at each annual meeting, one (1) (or (2), as the case may be) directors will be elected to serve a full three-year term, thus allowing continuity on the Board of Directors with there always being a director who has served a term of at least two prior years and a director who has served a term of at least one prior year, in addition to the newly elected director. No director shall serve more than two successive terms, except that the two initial directors elected to a one-year term and a two-year term respectively, may serve two additional successive three-year terms. A director's term shall automatically be terminated and the office of director vacated upon the death of a director, upon said director selling his or her lot or otherwise ceasing to be a lot owner and thus, a member of the Association, or upon voluntary resignation by a director, or upon said director becoming delinquent in the payment of any assessment or indebtedness to the Association. In which case, that vacancy shall be filled by the affirmative vote of the remaining directors, or at the next regular annual meeting of the membership, in the discretion of the President of the Board.

E. REMOVAL OF DIRECTORS: Directors may be removed for cause or without cause. Any director whose removal is sought will be given notice prior to any meeting called for that purpose or prior to a meeting where such action is contemplated to be taken. Such director may be removed from office by a majority vote of the voting members voting at a meeting where a quorum has been declared present, in the same manner as any other legal action of the Association is taken.

Any director elected to fill a vacancy is elected and shall serve only the remainder of the unexpired term of the predecessor director whose term is being filled unless otherwise elected or reelected to an additional term.

F. ORGANIZATIONAL MEETING: The first meeting of the original elected Board of Directors shall be held within ten (10) days after the meeting at which said original elected Directors were elected, at such time and place as shall be fixed by the Board.

- G. REGULAR MEETINGS: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors. Notice of the time and place of the meetings shall be communicated to the directors not less than ten (10) days prior to these meetings, provided, however, that notice of such meetings need not be given to any director who has signed a waiver of notice or written consent to the holding of said meeting, provided, however, if a meeting is scheduled by the Board at a prior Board meeting, then no formal notice of said meeting shall be required.
- H. SPECIAL MEETINGS: Special meetings of the Board of Directors may be held when called by written notice signed by the President or by a majority of the directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Such notice shall be given to each director at least forty-eight (48) hours prior to said special meeting and may be given by any of the following methods:
- i. Personal Deliver;
  - ii. Telephone communication, directly and in person to the Director; or
  - iii. Email.
- I. WAIVER OF NOTICE: Any regular or special meeting of the directors and action taken with respect thereto, shall be valid so long as properly held and notice properly given or so long as either before or after said meeting each director signs a written waiver of notice or a consent to the holding of said meeting or an approval of the minutes of said meeting. Notice of a meeting shall also be deemed to be given to any director who attends said meeting and who fails to protest lack of notice at the commencement of said meeting.
- J. QUORUM OF DIRECTORS: At all meetings of the Board of Directors, a majority (51%) of the directors shall constitute a quorum for the transaction of business. The votes of a majority of the directors present at a meeting at which a quorum is present shall constitute a proper decision of the Board. If a quorum is initially present, the meeting may continue to transact business regardless of the withdrawal of a member, so long as any action taken is approved by at least a majority of the required quorum for that meeting. The chairman of the Board shall have a vote on all questions before the Board.
- K. ADJOURNED MEETINGS: If any meeting of the Board cannot be held because a quorum is not present, a majority of the members of the Board who are present may adjourn the meeting to a time not less than three (3) nor more than thirty (30) days from the time such meeting was originally called. At such adjourned meeting, so long as a quorum is present, any business may be transacted that could have been transacted at the original meeting.
- L. COMPENSATION: No director shall receive any compensation from the Association as a director unless approved by a majority vote of voting members representing at least fifty-one percent (51%) of the total membership of the Association, taken at a regular or special meeting of the Association.
- M. CONDUCT OF MEETING: The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the meetings, recording therein all



resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meeting.

N. ACTIONS WITHOUT FORMAL MEETING: Any action of the directors may be taken without a formal meeting if a consent, in writing, setting forth the action so taken, shall be signed by all of the directors and such consent shall have the same force and effect as a unanimous vote.

O. POWERS OF OFFICERS: The Officers shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs and may do all acts not otherwise prohibited by law or by the Declaration, Bylaws, or Articles of Incorporation of the Association. In particular, the Board shall have power and authority to:

- i. Contract for insurance coverage on behalf of the Association to protect the Association and the lot owners from liability regarding said common areas, if they deem such to be advisable.
- ii. Adopt and publish Rules and Regulations governing use of common areas and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.
- iii. To provide or cause to be provided all goods and services required by the Bylaws or by law, or which the Board, in its discretion, deems necessary for the proper maintenance of the common areas, to the extent such goods and services shall not be otherwise provided.
- iv. To collect an annual assessment of \$750.00 from the Owners, or any other properly approved assessment, and to render or cause to be rendered statements, when required or useful, of any assessments which remain unpaid by any Owner.
- v. To increase or decrease the amount of the annual assessment from time to time.
- vi. To maintain a class action, and to settle a cause of action, on behalf of the Owners, with reference to the common areas.
- vii. To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board and to appoint one of the Directors to serve as an ex- officio member of the Architectural Control Committee created under the Declaration of Protective Covenants of Rustic Oak Estates if and only if no Board member is currently officially serving on the Architectural Control Committee.

- viii. To enter into an agreement with individuals or entities for maintenance of the common areas and access roads and easement and to enter into agreements with other Associations having common areas on adjacent properties.
- ix. To take appropriate action to enforce the provisions of the Covenants for Rustic Oak Estates, and the Bylaws, pursuant to the general laws of Alabama. In connection with same, the Board is authorized to file or defend appropriate suits or requests for arbitration filed under any of said instruments, acts or provided for by the laws of Alabama.
- x. To employ attorneys, accountants, and other persons or firms reasonably necessary to carry out the provisions of the Covenants for Rustic Oak Estates and the Articles of Incorporation of Rustic Oak Estates Homeowners' Association, Inc. It is understood that these professional and legal fees shall be paid for by the Association.

These powers and authorities are examples and are not meant to be inclusive of the power and authority of the Officers.

- P. BOOKKEEPING. ACCOUNTS AND REPORTS: Through the Treasurer of the Association, the Board will see to it that the bookkeeping, accounts and reports of the Association are appropriately and accurately handled. No remuneration will be paid for bookkeeping or accounting services unless approved by a vote of the membership of the Association. Accounting and control should conform with established AICPA guidelines and principles, which require, without limitation, a segregation of accounting duties, disbursements by check requiring at least two (2) signatures, and cash disbursements being limited to Twenty-Five Dollars (\$25) or less. Cash accounts of the Association shall not be commingled with other accounts. Financial reports should be prepared for each regular Board meeting, including both income statements and expense statements. Said statements shall be available for review by a member at any reasonable time upon request to the President or the Treasurer of the Association. An annual statement reflecting the financial condition of the Association in all material respects shall be completed annually within sixty (60) days following the end of the Association's fiscal year and shall be distributed to each Association member within thirty (30) days thereafter.
- Q. MAINTENANCE. REPAIR RESTORATION: The officers shall have the power to borrow money for the purpose of repair, restoration or maintenance to the common areas and facilities, without direct approval of the Board of Directors, provided, however, that membership approval must be had if the total amount to be borrowed exceeds or would exceed ten percent (10%) of the budgeted gross expense for the Association for that fiscal year.
- R. HEARING PROCEDURE: The Board shall not impose a fine or suspend the voting rights of any member unless and until the following procedure is followed:



- i. A written demand is made to the member to cease and desist from the alleged violation which demand shall be served upon the alleged violating member stating the alleged violation, the action required to abate the violation and the time period which shall not be less than ten (10) days during which the violation must be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rules may result in the imposition of a sanction after notice and hearing if the violation is not of a continuing nature.
- ii. Notice of hearing at any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty or if the same rule is subsequently violated, the Board shall serve the violator with written notice of a hearing to be held by the Board in executive session. This notice shall contain the nature of the violation, the date, time and place of the hearing, which time shall be not less than ten (10) days from the date the notice is given, an invitation to attend the hearing and present any statement, evidence, or witnesses on behalf of the alleged violator, and the proposed sanctions to be imposed.
- iii. The hearing shall be held by the Board in executive session pursuant to the notice, and the member shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the board member, officer of the Association, or an agent of same who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting.

The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

- iv. Following the hearing and the ruling of the Board the alleged violator shall have the right to request a rehearing if further facts or evidence are determined to be available for presentation which were not presented at the original hearing. Other than reconsideration, there will be no appeal from the original board action. Reconsideration will be discretionary by the Board, and if the Board does not act within thirty (30) days after a request for reconsideration, then the reconsideration will be deemed to have been denied. In the event reconsideration is allowed, the Board will notify the alleged violator who has requested such reconsideration of the date, time and place of the reconsideration hearing, which time shall not be less than ten (10) days from the date said notice is given.

## ARTICLE V

### **OFFICERS**

- A. OFFICERS: The officers of the Association shall be a President, a Vice-President, and a Secretary/Treasurer and will be elected by the Association. The Chairman of the Board, Directors, and the Secretary of the Board of Directors will be elected by a majority of the members of the Board of Directors.
- B. ELECTION, TERM OF OFFICE. AND VACANCIES: The officers of the Association shall be elected annually by the members in good standing of the Homeowners' Association at the first meeting of the Board of Directors following each annual meeting of the voting members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the respective term.
- C. REMOVAL: Any officer may be removed by the Board of Directors whenever, in the judgment of the Board, it is in the best interest of the Association.
- D. POWERS AND DUTIES: The officers of the Association shall each have such powers and duties as generally pertain to their respective officers, unless otherwise limited or restricted by the Board, as well as such powers and duties as the Board may delegate to them:
- i. The President shall be the Chairman of the Board of the Association. He shall have all of the powers and duties which are usually vested in the Office of the President of an association including, but not limited to, the power to appoint committees from among the members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.
  - ii. The Vice-President shall, in the absence of or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
  - iii. The Secretary shall keep the minutes of all proceedings of the Directors and members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, and shall perform all other duties incident to the office of the Secretary of an association as may be required by the Directors or the President.



- iv. The Treasurer shall have custody of all property of the Association including funds, securities, and evidences of indebtedness. He shall keep the financial records and books of account of the Association in accordance with good accounting practices; shall keep detailed, accurate reports in chronological order of the receipts and expenditures affecting the common areas and facilities and any other expenses incurred; shall keep an account for each unit setting forth any shares of common expenses or other charges, due dates thereof, balance due for each unit, and any interest in common surplus. The Treasurer shall also perform all other duties incident to the office of Treasurer. The records, books of account, and the vouchers authorizing payments shall be available for examining by a member of the Association at convenient hours of week days.
- E. RESIGNATION: Any officer may resign at any time by notifying the Board of Directors, the President or the Secretary in writing. Such resignation shall take effect either on the date stated or on the receipt of such notice, whichever is later, and unless otherwise required, the acceptance of such resignation shall not be necessary to make it effective.
- F. AGREEMENTS, CONTRACTS, DEEDS, LEASES, AND CHECKS, ETC: All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two officers or by the President and a board member or designee of the Board.

## ARTICLE VI

### **FISCAL MANAGEMENT**

- A. BUDGET: The Board of Directors shall determine the common expenses of the Association and adopt a budget for each calendar year of such estimated common expenses, including a reasonable allowance for contingencies and reserves less the unneeded fund balances on hand. Copies of the budget and proposed assessments shall be transmitted to each member on or before fifteen (15) days proceeding the year for which the budget is made.
- B. ASSESSMENTS FOR RECURRING EXPENSES: An assessment of \$750.00 per Lot Owner for recurring common expenses shall be made for the calendar year annually, on or before January 1 of the year for which the assessments are made and shall be due on January 15 of such year. Notwithstanding the above, if January 15 of any year falls on a Saturday or Sunday then assessments shall be due on the first business day following thereafter. There shall be a thirty (30) day grace period for the payment of said assessment by each lot owner unless such lot owner is exempt pursuant to III. G. The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas, particularly including private roads, which the Association will be obligated to maintain, and such maintenance funds reserved may, from time to time, be increased or reduced by a majority vote of the members. The proportion and interest of each Lot Owner in said funds cannot be withdrawn or separately



assigned but shall be deemed to be transferred with such Lot even though not expressly mentioned or described in the conveyance thereof. In case the Association hereby created shall be terminated and the property removed from the Association's Ownership, any part of the said funds remaining after full payment of all common expenses of the Association shall be distributed to all Lot Owners in their respective proportionate shares.

C. ASSESSMENTS FOR WORKING CAPITAL: The Purchaser of each Rustic Oak Estates lot shall pay the Association upon closing of such Lot the sum of \$0.00, and subsequent payments shall be due in accordance with the provisions of paragraph B. Initial assessment to be pro rated based on calendar year.

D. ASSESSMENT FOR EMERGENCIES: Assessments for common expenses for emergencies which cannot be paid from the assessments for recurring expenses shall be made only after notice of the need therefore to the Lot Owners concerned. After such notice and upon approval in writing of two-thirds (2/3) of such Lot Owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days' notice thereof in such manner as the Board of Directors of the Association may require.

E. FUND USAGE: The primary usage of funds Collected through subscriptions and dues paid by members of the Association will be used to meet the obligations of each calendar year's budget.

F. DEFAULT:

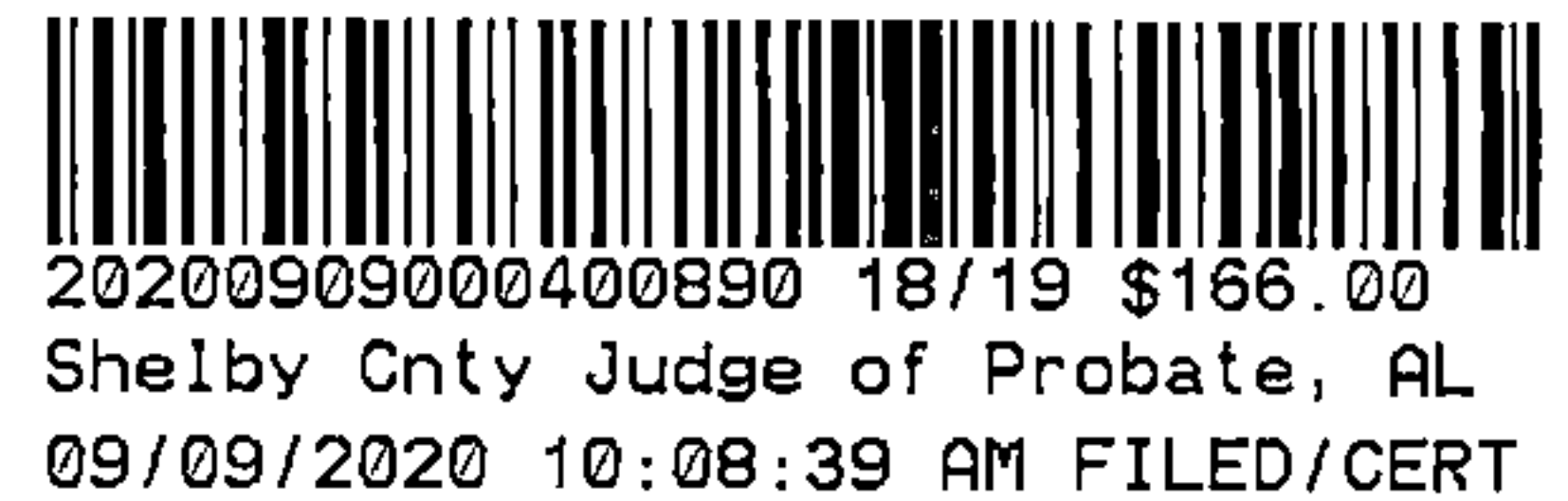
- i. In the event an Owner of a Lot does not pay any sums, charges or assessments required to be paid to the Association within sixty (60) days from the end of the due date, the Association may foreclose the lien encumbering the unit created by nonpayment of the required moneys in the same fashion as mortgage liens are foreclosed; provided that sixty (60) days' prior notice of the intention to foreclose shall be mailed, postage prepaid, to the Lot Owner and to all persons having a mortgage lien or other interest of record in such unit as shown in the Association's record of ownership. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the Lot at a foreclosure sale and to acquire, hold, mortgage or convey the same. In any such foreclosure action the lien of the Association shall be subordinate and inferior to tax liens of the State, county, any municipality and any special district, and any first mortgage liens of record encumbering such unit at the time of the commencement of the foreclosure action by the Association. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgment for any sums, charges or assessments required to be paid to the Association without waiving its lien securing same. In any action either to foreclose its lien or to recover a money judgment, brought by or on behalf of the Association against the Rustic Oak Estates Lot Owner, the losing party shall pay the cost thereof together with a reasonable attorney's fee.



- ii. If the Association becomes the Owner of a Lot by reason of foreclosure, it shall offer said Lot for sale and at such time as sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the Lot, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the Lot in question. All moneys remaining after deducting the foregoing items of expense shall be returned to the former Owner of the Lot in question.
- G. DEPOSITORY: The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board and in which moneys of the Association shall be deposited. Withdrawal of money from such accounts shall be only by checks signed by such persons as are authorized by the Board pursuant to Article V(F) of these Bylaws.
- H. FISCAL YEAR: The fiscal year of the Association and any changes therein shall be set by resolution of the Board of Directors.
- I. PARLIAMENTARY RULES: Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of the Association's meetings when not in conflict with Alabama law, the Articles of Incorporation, the Declaration or these Bylaws.
- J. CONFLICTS OF LAW: If there are any conflicts or inconsistencies between the provisions of Alabama law, the Articles of Incorporation, the Declaration, and these Bylaws, then the provisions of Alabama law, the Declaration, the Articles of Incorporation, and these Bylaws (in that order) shall prevail.
- K. BOOKS AND RECORDS: The Declaration, Articles of Incorporation, Bylaws, membership roster, books of account, minutes of meetings of the Association, the Board and committees thereof and any other legal documents of the Association shall be made available for inspection and copying by any mortgagee, any member of the Association, or by his or her duly appointed representative at reasonable times and for purposes reasonably related to interests of the requesting party, at the office of the Association or at such other place as the Board shall prescribe. The Board may establish reasonable rules for the inspection of such documents, the copying of such documents and the usage of such documents, but in no event will the membership roster be made available to any individual for commercial purposes. Every director shall have the absolute right, at any reasonable time, to inspect and/or copy any of said documents.
- L. NOTICES: Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws, shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by first class mail with postage prepaid.

- i. If to a member, at the address to which the member has designated in writing and filed with the Secretary or, if no such address has been designated at his or her lot address; or
- ii. If to the Association, the Board of Directors, or the President, then at the principal office of the Association, if any, or at such other address as shall be designated for said entity or individuals on the records of the Association.

M. AMENDMENT TO BYLAWS: These Bylaws may be amended by proper action of the Board of Directors, as long as all legal requirements are complied with. However, the percentage of votes necessary to amend any specific clause or provision hereof shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.



The foregoing are adopted as the Bylaws of the  
Rustic Oak Estates Homeowners' Association, Inc.,

on this the 9TH day of September, 20 20.

**RUSTIC OAK ESTATES  
HOMEOWNERS' ASSOCIATION, INC.**

**BY: Wes Davis**  
**ITS: Director**

**BY: Connor Farmer**  
**ITS: Director**

**BY: Tony DeJohn**  
**ITS: Director**



John H. Merrill  
Secretary of State

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


# STATE OF ALABAMA

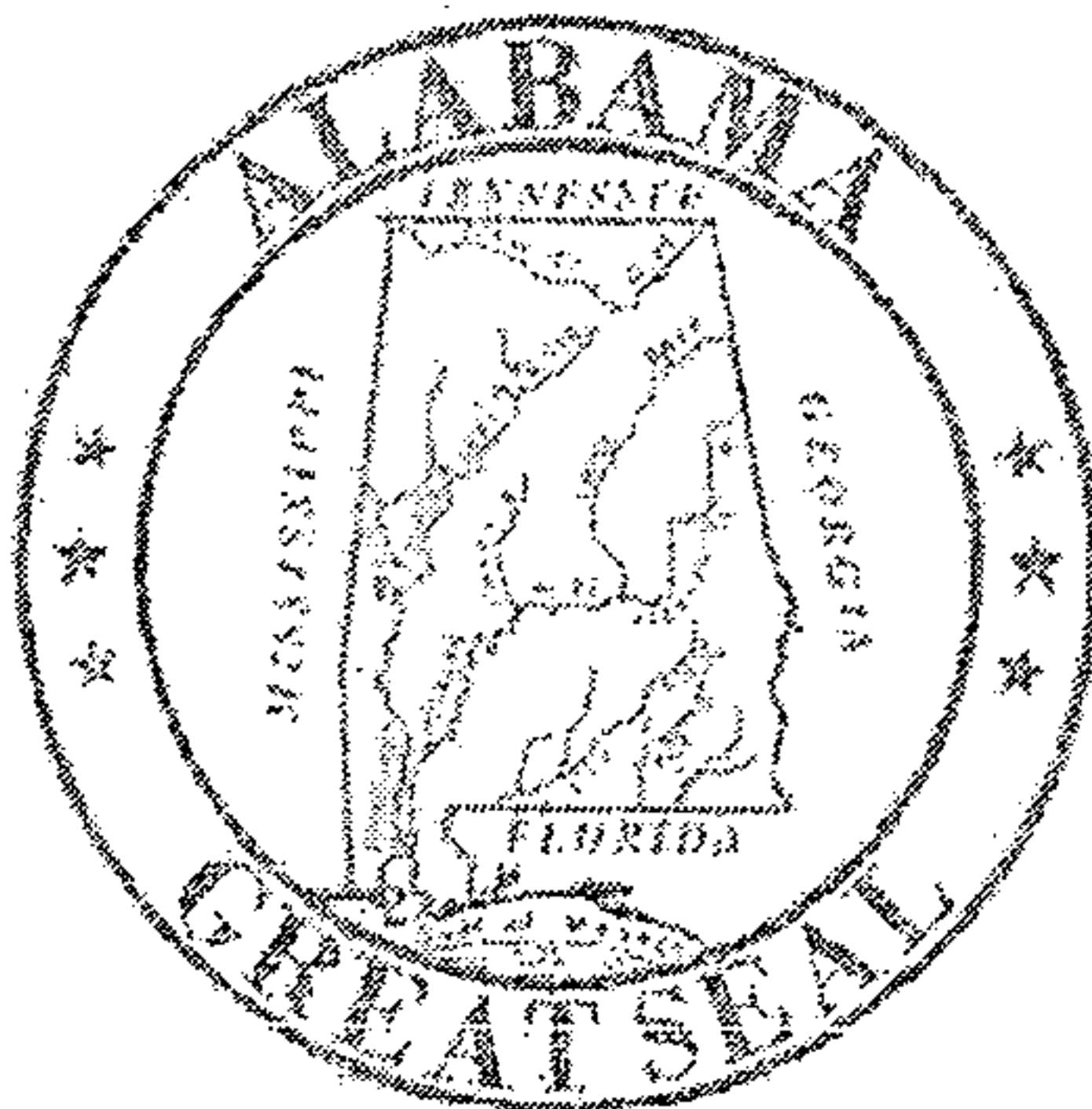
**I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that**

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

**Rustic Oak Estates Homeowners' Association, Inc.**

This name reservation is for the exclusive use of The Majors Law Firm, LLC,  
3684 Cahaba Beach Rd, Birmingham, AL 35242 for a period of one year  
beginning September 08, 2020 and expiring September 08, 2021

  
20200909000400890 19/19 \$166.00  
Shelby Cnty Judge of Probate, AL  
09/09/2020 10:08:39 AM FILED/CERT



RES904218

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

September 08, 2020

Date

*J. H. Merrill*

John H. Merrill

Secretary of State