

Bylaws of The Austin Park Estates Property Owners Association

A Corporation Not For Profit Under the Laws of the State of Alabama.

These are the Bylaws of The Austin Park Estates Property Owners Association (Hereafter called "Association"), a corporation not for profit, incorporated under the laws of the State of Alabama. The Articles of Incorporation of the Association have been filed in the office of the Judge of Probate of Baldwin County, Alabama, Miscellaneous Book. The Association has been organized for the purpose of providing community and other types of services and benefits to owners of property in Austin Park Estates, a subdivision as per plats thereof recorded in the office of the Judge of Probate of Baldwin County, Alabama, and can be identified by document number 1091019 in the Miscellaneous Book.

1.1 **Office.** The office of the Association shall be at P.O. Box 676, Daphne Ave. Daphne, Al 36526, or such other place as shall be selected by the Board of Directors.

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

1.3 **Seal.** The corporate seal of the Association shall consist of two concentric circles, between the edges of which shall be engraved the words, "The Austin Park Estates Property Owners Association" and "Alabama," and across the center thereof the words "Not For Profit Seal," all as shown by an imprint of such seal in the margin of these Bylaws. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLES II MEMBERS

2.1 **Qualification.** The members of the Association shall consist of all owners of Lots (As defined below), and no other persons or entities shall be entitled to membership. "Owner" shall mean and refer to the recorded owner, whether the same shall consist of one or more persons or entities, of the fee simple title to any lot, including contract sellers pursuant to an unrecorded

contract but excluding those having a record interest in a lot merely as security for the performance of the obligation.

2.2 **Membership.** Membership in the corporation shall be established by acquisition of ownership of a fee simple interest in a lot in the Subdivision, as it is constituted from time to time (a "lot"), whether by conveyance, devise, judicial decree or otherwise and by recordation among public records of Baldwin County, Alabama, of the deed or other instrument establishing the acquisition and designating the lot affected thereby and by delivery to the corporation of a true copy of such recorded deed or other instrument. The new owner, as to the lot designated, shall be terminated. Membership shall be appurtenant to and may not be separated from ownership of any lot.

2.3 **Voting Rights.** The corporation shall have one class of voting membership, described as follows:

Class A: Class A members shall be the owners of all lots in the Subdivision (as it is constituted from time to time). Who shall be entitled to one (1) vote for each lot owned. When more than one person or entity holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as determined by the owners thereof, who shall so advise the Secretary of the corporation before any meeting. In the absence of such advice, such Lot's vote shall be suspended in the event more than one person seeks to exercise it. In no event shall more than one Class A vote be cast with respect to any lot.

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 membership ceases, except as an appurtenance to ownership of his lot.

2.5 **Rights of Enjoyment.** Each member shall have the rights of use and enjoyment of the Association's property as provided in the Declaration.

ARTICLE III MEMBERS' MEETINGS

3.1 **Place.** All meetings of members of the Association shall be held at such place within the County of Baldwin, Alabama, as may be stated in the notice of the meeting.

3.2 **Membership List.** At least ten (10) days before every election of the directors, the Secretary shall prepare a complete list of the members of the Association, arranged alphabetically. Such list shall be maintained by the Secretary of the Association and shall be open to examination by any member at any reasonable time and on reasonable notice.

3.3 **Regular Meeting.** Regular or annual meeting of the members of the Association shall be held on the first Saturday of April of each year. Should this date conflict with any holiday then the meeting shall be held on the second Saturday of April.

3.4 **Special Meetings of the Membership.**

3.4.1 Special Meeting of the membership for any purpose may be called at any time by the President, and shall be called by the President or Secretary at the request, in writing, of either a majority of the Board of Directors or ten (10%) percent of the voting interests of the members. Such request shall state the purpose of the proposed meeting.

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

3.5 **Notice.** Written notice of every meeting, special or regular, of the members of this Association, stating the day and hour and place and, in the case of special meetings, the objects thereof, shall be delivered, mailed or emailed to each member at such member's address as shown in the books of the Association at least ten (10) days before such meeting unless waived in writing. To be effective for purposes of such notice, any change of address or email address by a member must be received by the Association ninety (90) days before each meeting.

3.6 **Waiver of Notice.** Whenever any notice is required to be given to any member under the provisions of the Alabama Constitution, Alabama Nonprofit Corporation Act, or the Articles of Incorporation or Bylaws 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 **Proxies.** At any meeting of the members of the Association, each member shall be entitled to vote in person or by proxy. However, no proxy shall be valid unless it is filed with the Secretary at least one (1) day before a meeting, nor shall any proxy be valid unless it is granted to a person who is also a member. No person may cast more than one proxy vote. No proxy vote may be cast on behalf of a member who is present at a meeting.

3.8 **Vote Required to Transact Business.** When a quorum is present at any meeting, the holders of a majority of voting rights 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, the Declaration, the Articles of Incorporation of these Bylaws, the express provision shall govern and control the number of votes required. In all cases where reference is made to percentage of the vote of members, percentage of the members, or percentage of the members for purposes of determining the vote thereof, the percentage stated shall mean the percentage of the voting rights of the members.

3.9 **Quorum.** Greater than fifty (50%) percent of the total number of voting rights of the Association present in person or represented by proxy, shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute, the Declaration of these Bylaws. If a quorum is not present at any meeting, the members may adjourn the meeting, until a quorum is present. No business may be transacted at any adjourned meeting until a quorum is present. Any business may be transacted at any adjourned meeting, which could have been transacted at the meeting called.

ARTICLE IV DIRECTORS

4.1 **Number.** The affairs and business of the Association shall be managed by a Board of Directors, consisting of no less than three (3) nor more than nine (9) persons. The number of directors shall be determined from time to time by amendment to the Bylaws. Directors shall be required to be members of the Association. The number of directors constituting the first Board of Directors shall be three (3) as designated in the Articles of Incorporation.

4.2 **Term.** Each Director shall be elected to serve a term of two (2) years. All Directors will be divided into two classes as nearly equal in number as practical in order to stagger the terms of Directors and achieve continuity of governance of the Corporation as follows: Class A Directors, whose terms

expire at the end of the Annual meeting of the Board of Directors in odd numbered years; and Class B Directors, whose terms expire at the end of the Annual Meeting of the Board of Directors in even-numbered years. The number of Directors in each class will be fixed as determined by the Board of Directors, or until his successor shall be elected and shall qualify. Class A Board (elected odd years) members include the President and Secretary. Class B Board Members (elected even years) include the Vice President, The Treasurer and the Architectural Committee Chair. As Board member positions increase, the new position will be assigned to the class having the least members alternately until all new positions are assigned to a class.

4.3 **Vacancy and Replacement.** If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors, though less than a quorum, at a special meeting of directors duly called for this purpose, shall choose a successor or successors who shall hold office for the unexpired term in respect to which such vacancy occurred.

4.4 **Election of Directors.** Election of directors shall be conducted in the following manner.

4.4.1 Directors shall be elected at the annual meeting of the members.

4.4.2 A nominating committee of three (3) members shall be appointed by the President with the approval of the Board of Directors not less than thirty (30) days before the members' meeting. The Committee shall nominate one (1) person for each director's seat. Additional nominations may be made from the floor.

4.4.3 The election shall be by secret ballot (unless dispensed with by unanimous consent). The nominees receiving the greatest number of votes cast shall be elected to the Board.

4.5 **Removal.** Directors may be removed for cause by an affirmative vote of three-fourths (3/4) of the members' votes.

4.6 **Powers and Duties of Board of Directors.** 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:

4.6.1 **Assess.** To make and collect an annual maintenance charge against members to pay the expense incurred by the Association in carrying out the objects and purposes of the Association.

4.6.2 **Disburse.** To use the proceeds of assessments in the exercise of its powers and duties.

4.6.3 **Enforce.** To enjoin or seek damages from the members for violation of these Bylaws and the terms and conditions of the Declaration and any other restrictive covenants applicable to the Subdivision.

4.6.4 **Employ.** To employ and contract with service contractors in connection with carrying out the objects and purposes of this Association

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

4.8 **Compensation.** The directors shall not be entitled to any compensation for service as directors, but directors shall be entitled to reimbursement for reasonable, ordinary and necessary out of pocket expenditures incurred in their performance of their duties as directors.

4.9 **Action by Consent.** Any action required by the laws of Alabama, the Articles of Incorporation or these Bylaws or the Declaration which may be taken at a meeting of either the members or directors of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members or directors as the case may be entitled to vote thereat with respect to the subject matter thereof. Such consent shall have the same effect as a unanimous vote of members or directors, as the case may be, and may be stated as such in any article or document filed with the probate Judge Baldwin County, Alabama.

ARTICLE V DIRECTORS MEETINGS

5.1 **Organizational Meeting.** 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. Such meeting of the Board shall be held at the same place as the general members' meeting.

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, telephone or telegraph, at least three (3) days before the day named for such meeting.

5.3 **Special Meeting of the Board of Directors.** Special meeting of the Board of Directors may be called by the President on five (5) days' notice to each director. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice upon the written request of three (3) directors.

5.4 **Waiver of Notice.** No written notice of a Board of Director meeting shall be required if all of the directors meet by unanimous consent. The directors may, by resolution duly adopted, establish regular monthly, quarter-annual, or semi-annual meetings. If such resolution is adopted, no notice of such regular meetings of the Board of Directors shall be required.

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

5.4.1 **Electronic Participation at Meeting:** Directors may participate in and act at any meeting of the Board of Directors using a conference telephone or other communications equipment so long as all persons participating in the meeting can communicate with each other concurrently.

5.4.2 **Telephonic or electronic director** participation in a meeting will constitute attendance and presence at the meeting.

5.6 **Adjourned Meeting.** If at any meeting of the Board of Directors 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 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 determining a quorum.

5.8.1 **Presiding Officer.** The presiding officer at meetings of the Board of Directors shall be the President of the Association. In the absence of the President, the Vice President shall be designated to president.

5.8.2 **Indirect Interest:** A Director is “indirectly” a party to a transaction if he or she either:

1. Has a material financial interest in the entity with which the transaction is occurring; or
2. Is an officer, director, or general party with the entity with which the transaction is occurring.
3. **Grant Exception:** If a Director of the Corporation is also an officer or director of both parties to a transaction involving a grant or contribution, without consideration, from one entity to the other, that Director is not “indirectly” a party to the transaction so long as the Director does not have a material financial interest in the entity that receives the grant or contribution.

ARTICLE VI OFFICERS

6.1 **Officers.** The executive officers (Board of Directors) of the Association shall be a President, Vice President, Treasurer, Secretary, and Architectural Committee Chair. (Or, in lieu of separate offices of Secretary and Treasurer, a Secretary/Treasurer as the Board of Directors may desire from time to time), each of whom shall be elected at the annual meeting of the membership. The Board may elect more than one Vice President. The Board of Directors may appoint such other officers and agents that it may deem necessary, which shall hold office at the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by said Board of Directors.

6.2 **Qualification.** Officers shall be required to be members of the Association.

6.3 **Term.** The officers of the Association shall hold office for two year terms or 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 the affirmative vote of three-fourths (3/4) of the members of the Association.

6.4 **The President.** The President shall be the chief executive officer of the Association, he shall preside at all meetings of the members and directors; shall be an ex-officio member of all standing committees; shall have general management of the business of the corporation, and shall see that all orders and resolutions of the Board are carried into effect.

6.5 **The Secretary.**

6.5.1 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.

6.5.2 The Secretary shall see that all notices are duly given in accordance with the provisions of these bylaws or as required by law.

6.5.3 The Secretary shall be custodian of the corporate records, except those of the treasurer, and that of the seal of the corporation.

6.5.4 The Secretary shall keep a register of the post office and email addresses and contact phone numbers of each member, which shall be furnished to the Secretary by such member.

6.5.5 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 by the President or by the Board of Directors.

6.6 **The Vice President.** The Vice President shall be vested with all the powers and required to perform all the duties of the President in the President's absence, and such other duties as may be prescribed by the Board of Directors or assigned to him by the President.

6.7 **The Treasurer.**

6.7.1 The Treasurer shall keep full and accurate accounts of all financial records of the Association including receipts and disbursements in

books belonging to the Association, and 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 bylaws. The treasurer shall keep the financial records and books of account of the Association in accordance with good accounting practices shall keep detailed, accurate records of the receipts and expenditures; and shall perform other duties incident 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.

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

6.8 **Vacancies.** If any office becomes vacant because of death, resignation, and disqualification or otherwise, the remaining directors by a majority vote may choose a successor or successors who shall hold office for the unexpired term.

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

6.10 **Compensation.** The compensation, if any, of all employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association.

ARTICLES VII APPROVAL BY MEMBERS

7.1 The Association shall act through its Board of Directors, and only the following matters (in addition to any others which may be required by law or the Declaration) shall require an affirmative vote of the members of the Association;

Matter to be Approved

Approval Required

- (1) Election of Directors
- (2) Removal of Directors
- (3) Special Assessment

Plurality of Voting Rights
75% of the Voting Rights
67% of the Voting Rights

ARTICLE VII MAINTENANCE CHARGES

8.1 The Board of Directors shall have the right and power to subject the property of members situated in the Subdivision to periodic maintenance charges, and, if approved by the Association, from time to time, to special assessments and to levy liens in aid of collection thereof, all as provided in the Declaration.

ARTICLE IX LIABILITY

9.1 The Association assumes no responsibility for injuries sustained by or damages resulting from the acts or omissions or members or contractors of the Association.

ARTICLE X AMENDMENT OF BYLAWS

10.1 The Bylaws of the Association may be altered, amended or repealed by a majority vote of the Directors.

ARTICLE XI CONDUCT OF MEETING

11.1 All meetings of the members and of the Board shall be governed by Robert's Rules of Order.

ARTICLE XII PARLIAMENTARIAN

12.1 **Parliamentarian.** A 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. The parliamentarian shall see that all meetings are conducted in an orderly manner in accordance with Section 11 of these Bylaws.

ARTICLE XIII

INDEMNIFICATION

13.1 The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was a director, officer, employee, or agent of the Corporation against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation. To the extent that a present or former director, officer, employee, or agent of the Corporation has been successful, on the merits or otherwise, in the defense of any proceeding referred to in Section (a) of this Article, or in defense of any claim, issue, or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with such proceeding if that person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation.

13.2 Sections (a) and (b) of this Article will not apply in any proceeding in which the director, officer, employee, or agent is liable for negligence or misconduct in the performance of his or her duties.

13.3 Such rights of indemnification will not be exclusive of any other rights to which such director, officer, or employee may be entitled apart from this provision.

13.4 The Corporation shall have power to purchase and maintain, at the Corporation's expense, insurance on behalf of the Corporation and on behalf of any director, officer, employee, agent, or other person to the extent that power has been or may be granted by statute.

13.5 The Corporation shall have the power to give other indemnification to the extent permitted by law.

ARTICLE XIV

BOOKS AND RECORDS

14.1 Corporate Records The Corporation must maintain the following books and records at its registered office or principal place of business:

14.2 Accurate and complete books and records of account;

14.21 The original copy of its Bylaws including all amendments and alterations and any other corporate documents;

14.22 The minutes of the proceedings of either the Board of Directors or any committees established by the Board of Directors;

14.23 All documents relating to the Corporation's tax status;

14.24 Recent annual reports;

14.25 Copies of the Corporation's recent newsletters, journals, or other publications;

14.26 Financial statements; and

14.27 All payroll and other personnel records relating to employment.

ARTICLE XVII

AMENDMENTS

These Bylaws may be altered, amended or repealed, and new bylaws may be made and adopted at any annual or regular meeting of the Board of Directors, or at any special meeting called for that purpose, by the affirmative vote of a majority of the Directors in office.