

ARTICLES OF INCORPORATION

OF



HEATHER TERRACE PROPERTY OWNERS ASSOCIATION, INC.

The undersigned Incorporator desiring to become a body corporate to provide for the management of Heather Terrace, a residential subdivision in Baldwin County, Alabama (the "Subdivision") and to be the homeowners association with respect to the Subdivision, with the powers and duties set forth herein, does hereby make and file these Articles of Incorporation under and pursuant to the Alabama Nonprofit Corporation Act, Secs. 10-3A-1 et seq., Code of Alabama 1975 (hereinafter referred to as the "Act").

1. Definitions. As used herein, the following terms shall have the following meanings, unless the context otherwise requires:

(A) "Articles of Incorporation" means the Articles of Incorporation of the Association as the same may be amended from time to time.

(B) "Association" means Heather Terrace Property Owners Association, Inc., an Alabama nonprofit corporation, its successors and assigns.

(C) "Bylaws" means the Bylaws of the Association as the same may be amended from time to time.

(D) "Common Elements" means all portions of the Subdivision other than the Lots and the public street(s) and right(s)-of-way, including, without limitation, the Drainage System and all open spaces, landscaping, and other common areas and facilities in or appurtenant to the Subdivision, and all other property, whether real or personal, from time to time held by the Association for the common benefit and enjoyment of the Owners.

(E) "Common Expense Liability" means the liability for Common Expenses allocated to each Lot as provided herein.

(F) "Common Expenses" means expenditures made by or financial liabilities of the Association, including, but not limited to, expenditures made by or financial liabilities of the Association for the maintenance and repair of the public street(s) and right(s)-of-way in the Subdivision until the County or Municipality assumes the responsibility for the maintenance thereof, and for the management, maintenance, and care of the Common Elements, and the administration and enforcement of the rights, covenants, restrictions, affirmative obligations and conditions set forth in the Declaration, together with any allocations to reserves therefor.

(G) "County" means Baldwin County, Alabama, or, if the context so requires, an agency thereof.

(H) "Declaration" means the Declaration of Rights, Covenants, Restrictions, Affirmative Obligations and Conditions applicable to the Subdivision as recorded in the Office of the Judge of Probate of Baldwin County, Alabama, as the same may be amended from time to time.

(I) "Developer" means Elite Development, LLC, an Alabama limited liability company, its successors and assigns of its development rights in respect to the Subdivision.

(J) "Drainage System" means the storm and flood water retention areas and drainage system in the Subdivision, including all easements and rights-of-way appurtenant thereto.

(K) "Lot" means a lot of record in the Subdivision as shown on the Plat. "Lot" does not include an undivided interest in the Common Elements. Title to the Common Elements shall be vested in Developer until conveyed to the Association, as hereinafter provided.

(L) "Member" means any Person having membership rights in the Association as provided herein.

(M) "Municipality" means the municipality, if any, having and exercising subdivision planning jurisdiction over the Subdivision, or, if the context so requires, an agency of such municipality.

(N) "Owner" means the record owner, whether one or more Persons, of a vested interest in the fee simple title to a Lot. If title to a Lot is split between estates for life or for years, and remainder, then the owner or owners of the estate having present rights to possession shall be considered the Owner for the purposes hereof. Notwithstanding any applicable theory of the mortgage, "Owner" shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title, whether subject to redemption or not, pursuant to foreclosure or any proceeding in lieu thereof. After any mortgagee, lien holder or purchaser at foreclosure sale acquires title by foreclosure or proceedings in lieu of foreclosure, he shall become the "Owner" within the meaning of this Declaration, and the mortgagor or mortgagors shall no longer be an Owner regardless of whether there is outstanding a right of redemption.

(O) "Person" means a natural person, corporation, partnership, limited liability company, association, trust, estate, fiduciary, or other legal entity.

(P) "Plat" means the Final Plat of the Subdivision, or, if the Subdivision is developed in phases, of each phase thereof, approved by the Planning Commission and recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

(Q) "Property" means the land described in Exhibit "A" hereto and all improvements thereon, and all easements, rights and appurtenances thereunto belonging. If additional land is added to the Subdivision, "Property" shall include such land and the improvements thereon when added to the Subdivision by conveyance recorded in the Office of the Judge of Probate of Baldwin County, Alabama, designating the land described therein as an addition to the Subdivision.

(R) "Rules and Regulations" means the Rules and Regulations relating to the conduct of the Owners and their invitees and aesthetic considerations pertaining to the Subdivision from time to time adopted by the Association in accordance with its Bylaws.

(S) "Subdivision" means the Property when subdivided, laid out and platted in accordance with the Plat.

(T) "Subdivision Regulations" means the subdivision regulations of the County or Municipality applicable to the Subdivision.

All other terms used herein and in the Declaration shall have the same meanings herein as in the Declaration unless the context of this instrument otherwise requires.

2. Name of Corporation. The name of the corporation is Heather Terrace Property Owners Association, Inc. (hereinafter referred to as the "Corporation" or "Association").

3. Period of Duration. The period of duration of the Corporation shall be perpetual.

4. Purpose of Corporation. The Corporation is organized and shall be operated to provide exclusively for the management of the Subdivision, and to manage, maintain and administer the Common Elements, and to administer and enforce the covenants and restrictions set forth in the Declaration, and shall have all other powers and duties set forth in the Declaration. As provided in the Declaration, the Association shall be responsible for all maintenance, repairs, and replacement of the Common Elements, and shall have the right to suspend the enjoyment rights of any Member for any period during which any assessment due by

such Member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its Rules and Regulations.

The Corporation shall be the homeowners association with respect to the Subdivision within the meaning of Sec. 528 of the United States Internal Revenue Code of 1986 (the "Code"), and the Regulations thereunder.

The Corporation shall have authority to assess and collect membership dues, fees and assessments from the Members for the management, maintenance, and care of the Common Elements, and shall expend its funds exclusively for such purpose.

No part of the net earnings of the Association shall inure (other than by providing management, maintenance, and care of the Common Elements, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any Member or private individual.

The purposes set forth herein shall be construed as powers as well as purposes. The Corporation shall have and may exercise all such powers and all powers given to it by the Declaration and all powers given corporations by the Act, and any act hereafter amendatory thereof, supplementary thereto or substituted therefor, and all other applicable laws now or hereafter enacted, as if such powers were set forth in full herein, including, without limitation, all powers as shall enable it to do each and everything necessary, suitable, convenient, expedient or proper for the accomplishment of any or all of the purposes and the attainment of any or all of the objects set forth herein; provided, however, that the Corporation shall not have or exercise any power that would cause the Corporation not to be a homeowners association under Sec. 528 of the Code and the Regulations thereunder.

4. Members. The Association shall have only one class of member. The membership of the Association at all times shall consist exclusively of all Owners (including Developer as long as it owns a Lot), their heirs, successors or assigns. Each Owner shall cease being a member of the Association at the time he no longer owns a Lot. Change of membership in the Association shall be established by recording in the Office of the Judge of Probate of Baldwin County, Alabama, the deed or other instrument establishing record title to a Lot, and the delivery to the Association of a certified copy of such instrument, the Owner designated by such instrument thereby becoming a record Owner and a Member of the Association. Membership of the prior Owner shall thereby be terminated. All present and future Owners shall be subject to and shall comply with the provisions of the Declaration, the Articles of Incorporation, Bylaws and the Rules and Regulations adopted by the Association, as the same may be amended from time to time (collectively the "Governing Documents").

5. Meetings. A meeting of the Members shall be held at least once each year. Special meetings of the Members may be called by the President or a majority of the Board or by Members having not less than fifty percent (50%) of the votes in the Association. Not less than ten (10) nor more than sixty (60) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each Member or to any other mailing address designated in writing by such Member and filed with the Secretary. The notice of the meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Articles of Incorporation or Bylaws, any budget changes and any proposals to levy special assessments or to remove an officer or member of the Board, provided, however, that if the initial meeting is adjourned, the purpose of the meeting need not be set forth in the notice of any subsequent meeting called for the same purpose, and the notice provisions set forth in Section 6.5 of the Declaration shall apply in respect to each such subsequent meeting.

6. Quorum. At any initial meeting of the Members, whether regular or special, the presence at the meeting, in person or by proxy, of Members entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any such meeting, one or more subsequent meetings may be called on not less than ten (10) days written notice of each such subsequent meeting; and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the immediately preceding meeting;

provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

If a quorum is present at a meeting, the affirmative vote of a majority in interest of the Members represented at the meeting and entitled to vote on the subject matter shall be the act of the Members, unless a greater number is required by the Articles of Incorporation or Bylaws.

7. Voting Rights. Each Member in good standing shall be entitled to one vote on each matter submitted to a vote of Members. On all issues decided by a vote of the Members, whether pursuant to this Section or any other provision of this instrument, each Owner other than Developer shall be entitled to one vote for each Lot owned by him, and Developer shall be entitled to one vote for each Lot in, or planned for, the Subdivision (including all planned additional phases) owned by Developer. If a Lot is owned by more than one person, the Owners of the Lot, collectively, shall be considered a single Member, and may designate among themselves by proxy the one of their number entitled to vote for all of them. If only one of the multiple Owners of a Lot is present at a meeting of the Association, he shall be entitled to cast all the votes for that Lot. If more than one of the multiple Owners are present, the votes for that Lot may be cast only in accordance with a written agreement of a majority in interest of the multiple Owners, unless the Bylaws expressly provide otherwise. There shall be a majority agreement if any one of the multiple Owners of the Lot casts the votes for that Lot without protest being made promptly to the person residing over the meeting by any of the other Owners of the Lot.

An Owner may not revoke a proxy given pursuant to this Section except by written notice of revocation filed with the Secretary prior to a meeting or actual notice of revocation to the person presiding over a meeting of the Association. A proxy shall be void if it is not dated or purports to be revocable without notice. A proxy shall terminate one year after its date, unless it specifies a shorter term.

The Members shall not, as such, be liable for the debts of the Corporation.

8. Registered Office and Agent. The location and mailing address of the initial registered office of the Corporation is 12940 Underwood Road Summerdale, Alabama 36580. The name of the Corporation's initial registered agent at such address is Clarence E. Burke, Jr..

9. Board of Directors. The activities and affairs of the Association should be managed by a Board of Directors, provided, however, that the Board of Directors shall not exercise any power or authority conferred herein or by the Act or the Declaration upon the Members. Except as provided herein, or in the Declaration, the Board may act in all instances on behalf of the Association. In the performance of their duties, the officers and members of the Board shall exercise ordinary and reasonable care.

The Board may not act on behalf of the Association to amend the Declaration or to elect members of the Board or to determine the qualifications, powers and duties, or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.

The names and addresses of the initial members of the Board are:

<u>Names</u>	<u>Addresses</u>
Clarence E. Burke, Jr	Post Office Box 1629 Foley, Alabama 36536
Robert T. Cunningham III	1111 Beltline Hwy. Ste C Mobile, Alabama 36606
Jasper T. Dorsey	Post Office Box 1629 Foley, Alabama 36536

The term of service of the initial members of the Board shall be one (1) year from the date hereof, provided, however, that until termination of the period of Developer control of the

Association as provided in the Declaration, Developer may, by written instrument duly recorded in the Office of the Judge of Probate of Baldwin County, Alabama, at any time remove any member of the Board, or replace any member, or name a new member in place of any member who has resigned or died. Until the termination of the period of Developer control, the members of the Board appointed by the Developer may, but need not be, Owners.

As provided in the Declaration, upon termination of the period of Developer control of the Association, control of the Association shall be transferred to all Owners (including Developer if it is still a Owner) of a majority of the total Lots in, or planned for, the Subdivision (including all planned additional phases), and thereafter the Owners may, in accordance with the Articles of Incorporation or Bylaws, remove any member of the Board, or replace any member, or name a new member in his place in the event he for any reason ceases to so serve, and fix the term of service of each new member.

In determining the number of Lots which may be created at any time, the Lots in all planned additional phases of the Subdivision shall be included. The Developer shall be deemed to be the Owner of each Lot which has not been conveyed to a Person other than the Developer. The Developer shall be entitled to all rights and privileges available to, and shall be subject to any and all obligations and duties imposed upon, the Owner of any such Lot under the Documents.

Upon the termination of the period of Developer control, the Owners shall elect a Board of a least three members, all of whom shall be Owners.

The Board shall elect the officers. The Board members and officers shall take office upon election.

10. Incorporator. The name and address of the incorporator of the Corporation is Jasper Dorsey, P. O. Box 1629, Foley, Alabama 36536.

The powers of the incorporator shall terminate upon the filing of these Articles of Incorporation.

11. Amendment. Subject to the provisions of the Declaration, the Corporation reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation, in the manner now or hereafter prescribed by the Act, and all rights conferred upon Members herein are granted subject to such reservation; provided, however, that no such amendment, alteration, change or repeal of any such provision shall be effective if it would cause the Corporation not to be a homeowners association under Sec. 528 of the Code and the Regulations thereunder.

12. Related Party Transactions. No contract or other transaction between the Association or any person, firm, association or corporation and no other act of the Association shall, in the absence of fraud, be invalidated or in any way affected by the fact that any of the directors of the Association are directly or indirectly, pecuniarily or otherwise interested in such contract, transaction or other act, or are related to or interested in (either as director, stockholder, officer, employee, member or otherwise) such person, firm, association or corporation. Any director of the Association individually, or any firm or association of which any director may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that the fact that he, individually, or such firm or association is so interested, shall be disclosed or known to the Board of Directors or a majority of the members thereof as shall be present at any meeting of the Board of Directors or of any committee of directors having the powers of the full Board, at which action upon any such contract, transaction or other act is taken, and if such fact shall be so disclosed or known, any director of the Association so related or otherwise interested may be counted in determining the presence of a quorum of any meeting of the Board of Directors or of such committee, at which action upon any such contract, transaction or act shall be taken, and may vote with respect to such action with like force and effect as if he were not so related or interested. Any director of the Association may vote upon any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

13. Indemnification. The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs one and two of this Section, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

Any indemnification under paragraphs one and two of this Section (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs one and two of this Section. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the Members.

Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in the preceding paragraph upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Association as authorized in this Section.

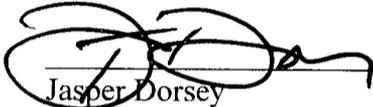
The indemnification authorized by this Section shall not be deemed exclusive of and shall be in addition to any other right (whether created prior or subsequent to the enactment of this

Section) to which those indemnified may be entitled under any statute, rule of law, provisions of articles of incorporation, bylaw, agreement, or disinterested directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provision of this Section.

13. Governing Provisions. If any provision of these Articles of Incorporation conflicts with any provision of the Declaration, the provisions of the Declaration shall govern.

IN WITNESS WHEREOF, the incorporator has hereunto set his hand and seal on this, the 11 day of oct, 2007.

 (SEAL)  
Jasper Dorsey

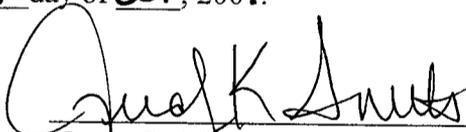
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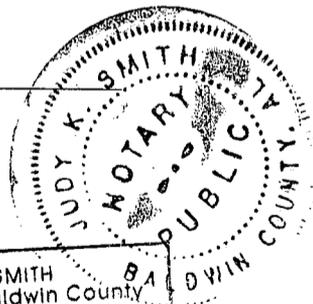
STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that Jasper Dorsey, whose name 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 said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this, the 11 day of oct, 2007.

  
Notary Public  
My Commission Expires: \_\_\_\_\_



THIS INSTRUMENT WAS PREPARED BY:

Jasper Dorsey  
Elite Development, LLC  
P. O. 1629  
Foley, Alabama 36536

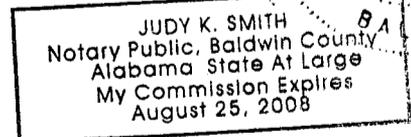


EXHIBIT "A"

COMMENCE AT A 1" IRON PIN MARKER FOUND AT THE NORTHWEST CORNER OF LOT 22 HESSE-STYRON SUBDIVISION, UNIT THREE, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 1280-B, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA FOR A POINT OF BEGINNING AND RUN THENCE SOUTH 00 DEGREE 42 MINUTES 11 SECONDS EAST, A DISTANCE OF 666.51 FEET TO AN IRON PIN MARKER (COSBY); THENCE RUN, ALONG THE NORTH LINE OF LOT 4 UNDERWOOD SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE FILE 2011-D, PROBATE RECORDS, BALDWIN COUNTY, ALABAMA, SOUTH 89 DEGREES 55 MINUTES 05 SECONDS WEST, A DISTANCE OF 330.09 FEET TO AN IRON PIN MARKER (CA-0371); THENCE RUN NORTH 89 DEGREES 17 MINUTE 00 SECONDS WEST, A DISTANCE OF 338.96 FEET TO AN IRON PIN MARKER (COSBY); THENCE RUN SOUTH 00 DEGREES 48 MINUTE 21 SECONDS WEST, A DISTANCE OF 643.27 FEET TO AN IRON PIN MARKER (COSBY); THENCE RUN NORTH 89 DEGREES 45 MINUTES 27 SECONDS WEST, A DISTANCE OF 564.49 FEET TO AN IRON PIN MARKER; THENCE RUN NORTH 00 DEGREES 38 MINUTES 52 SECONDS EAST, A DISTANCE OF 1313.00 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89 DEGREES 33 MINUTES 52 SECONDS EAST, A DISTANCE OF 1235.93 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 27.31 ACRES, MORE OR LESS, AND LIES IN THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 7 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA.

EXCEPTING THEREFROM, all oil, gas and other minerals lying in or under said property, and subject to all rights and privileges in connection therewith; and

SUBJECT ALSO to any and all rights-of-way, easements, building setback lines, and other conditions, matters and things shown on the Plat or contained in the subdivision regulations or zoning ordinances applicable to the Subdivision.