

**BY-LAWS OF  
IVY PLACE HOMEOWNER'S ASSOCIATION, INC.  
A NON PROFIT CORPORATION**

These By-Laws constitute the Code of Rules adopted by Ivy Place Homeowner's Association, Inc. ("Association") for the regulation and management of its affairs. This non profit corporation will have the purposes and powers as may be stated in its Articles of Incorporation and such powers as are now or may be granted hereafter by law.

**ARTICLE I**

**Membership and Membership Meetings**

**1. Qualifications:** The members of the Association shall consist of all Owners (as defined in the Declaration), and the membership shall be appurtenant to, and may not be separated from, ownership of any Lot (as defined in the Declaration). Membership shall attach automatically upon the acceptance of the delivery of the instrument of transfer of such ownership interest provided such instrument is promptly recorded in the Office of the Judge of Probate in St. Clair County, Alabama, and a true copy of such recorded instrument is promptly delivered to the Association, as defined in the Declarations. Membership shall terminate automatically upon the tendering of delivery of an instrument of transfer of such ownership interest (provided such instrument is accepted) or upon such ownership interest being divested in some other manner.

**2. Voting Rights:** Subject to the restrictions hereinafter set forth, each member shall be entitled to one (1) vote for each Lot in which he holds the interest required for membership. When on or more persons holds such interest, all such persons may be members, but in no event shall more than one vote be cast with respect to any Lot. If an Owner is a corporation or other entity, the person entitled to cast the vote for the Lot shall be designated by a certificate duly executed by such corporation or other entity and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote of a Lot may be revoked at any time by an Owner of a Lot. Except where otherwise required under the provisions of the Declaration, the Articles or the By-Laws, the affirmative vote of Owners who own a majority of the total Lots within the Property which is represented at any meeting of members duly called, and at which a quorum is present, shall be binding upon the members. Voting may take place by proxy executed and delivered in the manner set forth herein.

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St. Clair County, Alabama

3. Multiple Ownership: If a Lot is owned by more than one (1) person, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record owners of the Lot and filed with the Association. There shall be no fractional voting.
4. Annual Meetings: Annual meetings of members shall be held at the office of the Association, during the month of February of each year, on a date and at such time as the Board of Directors shall designate in the notice of such meeting provided to the members; subject, however, to the provisions of Section 14 of this Article I. The annual meeting shall be held for the purpose of electing directors and of transacting any other business authorized to be transacted by the members.
5. Special Meetings: Special meetings of the members may be called by the Board of Directors, the President or by a petition signed by ten (10%) percent of the members of the Association, for the purpose of considering and acting upon any matters of interest to the Association and its membership, and the Articles of Incorporation, including the adoption of resolutions declaring the desirability of any further action recommended by the membership.
6. Notice of Meetings: Notice of all members' meetings stating the date, time, place and object for which the meeting is called shall be mailed to each member not less than ten (10) nor more than thirty (30) days prior to the date of such meeting. Such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Association, postage prepaid. Notice of meetings may be waived either before or after meetings.
7. Voting in Person or by Proxy: A member may vote in person or by proxy executed in writing by the member or his duly authorized attorney in fact. No proxy shall be valid except for the particular meeting designated therein, and no proxy shall be honored unless filed with the Secretary of the Association before the appointed time of the meeting.
8. Quorum: At a first meeting called, the presence of members or proxies entitled to cast fifty-one (51%) percent of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
9. Vote Required to Transact Business: When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of law, the Declaration of Protecting Covenants, Articles of Incorporation, or the By-Laws, a different number is required, in which case the express provision shall govern and control the decision in question.

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10. Consents: Any action which may be taken by a vote of the members may also be taken by written consent to such action signed by the members required to take such action if such members were present and voting.
11. Adjourned Meetings: If any meeting of members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.
12. Order of Business: The order of business at annual members' meetings and, as far as practical, at all other members' meetings shall be according to the latest edition of Robert's Rules of Order.
13. Parliamentary Rules: The latest edition of Robert's Rules of Order shall govern the conduct of members' meetings when not in conflict with the Declaration of Protective Covenants, Articles of Incorporation or these By-Laws.
14. Developer Control: Notwithstanding anything contained herein to the contrary, there shall be no meeting of the membership of the Association and none shall be lawful until such time as the Developer has conveyed one hundred percent (100%) of the Lots in the Subdivision to Purchasers or until the Developer, its successors, or assigns, elects to terminate its control of the Association and the Subdivision operated by it, whichever first occurs.

## ARTICLE II

### Board of Directors

1. Members: The Board of Directors of the Association shall consist of not less than three (3) nor more than seven (7), as shall, from time to time, be determined and fixed by the vote of a majority of the voting rights present at any annual meeting of the members of the Association. Any responsible person, who need not be a member of the Association, shall be eligible to be a director. The first board of directors named in the Articles of Incorporation of the Association shall hold office until their successors shall have been elected. Each person on the Board of Directors shall hold office until his successors shall be elected and qualified. The word "director" as sometimes used herein shall mean a person elected to and serving on the Board of Directors.
2. Removal: Any director may be removed for cause by the vote of the holders of a majority of the voting rights present in person or represented by written proxy at any annual or special meeting of the members of the Association at which a quorum is present.
3. Vacancies: Any vacancy occurring in the board of directors, including vacancies occurring from the removal of a director, may be filled by majority vote of remaining members of the Board of Directors at any annual or special meeting.

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4. Annual Meeting: The annual meeting of the Board of Directors shall be held during the month of February of each year at the office of the Association, or other place as may be designated by the directors. Notice of the place and hour of each such meeting shall be given to each director at least five (5) days prior to each such meeting. Such notice may be given either in writing or by telephone.
5. Special Meetings: Special Meetings of the Board of Directors for any purpose may be called by the President or upon the written request of any two (2) directors, upon at least five (5) days notice to each director and shall be held at such place or places as may be determined by the directors, or as shall be stated in the call of the meeting. Such notice may be given either in writing or by telephone.
6. Waiver of Notice: Any director may waive notice of a meeting either before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.
7. Quorum: A quorum shall consist of fifty percent (50%) of the directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Board of Directors approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum.
8. Powers and Duties: The Board of Directors shall have the following powers and duties:
  - (a) To elect the officers of the Association as hereinafter provided.
  - (b) To administer the affairs of the Association and the Common Area Property of the Subdivision.
  - (c) To estimate the amount of the annual budget and to make and collect assessments, including annual, special and supplemental assessments as set forth in the Declaration, against Owners to defray the costs, expenses, and losses of the Association.
  - (d) To use the proceeds of assessments in the exercise of its powers and duties.
  - (e) To maintain, repair, replace and operate the Association Common Area Property.
  - (f) To purchase insurance upon the Common Area Property and other insurance, including fidelity bond coverage, for the protection of the Association and its members.
  - (g) To reconstruct improvements after casualty and to further improve the Common Area Property.

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(h) To make and amend reasonable rules and regulations respecting the use of the Common Area Property and the operation of the Association ("Rules and Regulations").

(i) To enforce by legal means the provisions of the Declaration, the Articles of Incorporation, these By-Laws, and the Rules and Regulations for the use of the Common Area Property.

(j) To contract for the management of the Common Area Property of the Association and to delegate to such managing agent all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the Board of Directors or the membership of the Association.

(k) To contract for the management or operation of portions of the common elements of the Association susceptible to separate management or operation.

(l) To retain legal counsel.

(m) To employ personnel to perform the services required for proper operation of the Association.

(n) To purchase Property of the Association.

(o) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the members, as expressed in the resolution duly adopted at any annual or special meeting of the members.

(p) To give notice to first mortgagees of certain events or occurrences as set forth in the Declaration.

(q) To exercise all other powers and duties of the Board of Directors of an association and all powers and duties of the Board of Directors of a corporation organized under the Alabama NonProfit Corporation Act, and all powers and duties of the Board of Directors referred to in the Declaration or these By-Laws, and any other powers and duties consistent with Alabama law.

9. Compensation: No director shall be compensated for any service he may render to the Association, except that any director may be reimbursed for his actual expenses incurred in the performance of his duties. This prohibition shall not be construed so as to preclude any director from serving the Association in any other capacity and receiving reasonable compensation therefor.

10. Insurance The Board of Directors shall obtain insurance for the Association Property which shall include the following: (1) fire insurance with extended coverage insuring the improvements if any, on Association property and the mortgagees, as their interest may appear, in the amount

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determined by the Board of Directors, in accordance with the requirements set forth in the Declaration; (2) comprehensive general liability insurance in such amounts and with such coverage as the Board of Directors may determine, but no less than \$1,000,000 for bodily injury and property damage for and single occurrence; and (3) such other insurance, including fidelity bond coverage, as the Board of Directors may determine. Provisions for such insurance shall be without prejudice to the right of each unit owner to insure his Lot for his own benefit.

All insurance on the Association Property ("Master Policy") shall provide coverage in an amount equal to 100% of the current replacement cost of improvements and shall provide for the following in so far as applicable:

(a) That the Property insured shall mean all of the improvements on or in connection with the Association Property as defined in the Declaration.

(b) That the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual owners and their respective household members.

11. Liability of the Board of Directors: The members of the Board of Directors shall not be liable to the Lot owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Lot owners shall indemnify and hold harmless each of the members of the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these By-Laws. It is understood and permissible for the Board of Directors, whether employed by the Developer or not, to contract with the Developer or any of its affiliates or Partners without fear of being charged with self-dealing. It is also intended that the liability of any Lot owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors shall be limited to such proportion of the total liability thereunder as his interest in the association bears to the interests of all the Lot owners in the association.

### ARTICLE III

#### Officers

1. Election: At each annual meeting, the Board of Directors shall elect the officers of the Association, any two (2) or more of which may be held by one person, except that the President shall not also be the Secretary. The officers of the Association shall be as follows:

(a) A President, who shall be a director and who shall preside over the meetings of the Board of Directors and of the members, and who shall be the chief executive officer of the Association.

(b) One or more Vice-President(s), who shall be a director(s) and who shall, in the absence or disability of the President, perform the duties and exercise the power of the President.

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(c) A Secretary, who shall keep the minutes of all meetings of the Board of Directors and of the members, and the minute book wherein resolutions enacted at such meetings shall be recorded, and who shall, in general, perform all of the duties incident to the office of Secretary.

(d) A Treasurer, who shall keep the financial records and books of account.

(e) Such additional officers as the Board of Directors shall see fit to elect.

2. Powers: The respective officers shall have the general powers usually vested in such officer of a not-for-profit corporation; provided that the Board of Directors may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board of Directors may see fit.

3. Term: Each officer shall hold office for the term of one (1) year and until his successor shall have been elected and qualified.

4. Vacancies: Vacancies in any office shall be filled by the Board of Directors at special meetings thereof. Any officer may be removed at any time by a majority vote of the Board of Directors at a special meeting thereof.

5. Compensation: The compensation, if any, of all officers 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 nor preclude the contracting with a director for the management of the Association. The officers shall receive no compensation for their services unless otherwise expressly provided in a resolution duly adopted by the Board of Directors.

6. Developer Control: Anything to the contrary contained herein notwithstanding until such time as the conditions referred to in Article I, Section 14, shall have occurred, the Developer shall be entitled to nominate and appoint all directors and officers of the Association and remove same in exercise of its absolute discretion.

## ARTICLE VII

### Assessments

1. Covenant to Pay Assessments: In accordance with the Declarations of Protective Covenants for Avalon each owner by acceptance of a deed or other conveyance for a lot or dwelling shall be obligated to pay to the Association the Association Annual Dues and special assessments.

2. Purpose of Assessments: The Assessments levied by the Association shall be used exclusively for the preservation of the appearance, value and amenities of the Property, and in

particular for the improvements, preservation, maintenance and administration of the Common Areas and of any easement in favor of the Association, and for the establishment of reserves therefor, as well as for such other purposes as are properly undertaken by the Association.

3. Annual Assessments: The Board of Directors shall levy Annual Assessments in such amounts as are necessary to meet the Common Expenses and such other recurring or projected expenses as the Board may deem appropriate. The Assessment year for the Annual Assessment need not be the calendar year.

4. Special Assessments: In addition to the Annual Assessments specified herein above, the Board of Directors of the Association may at any time levy one or more Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or expected or unexpected repair to or replacement of any of the Common Areas, including any fixtures and personal property related thereto.

5. Duties of the Board of Directors: The Board of Directors of the Association shall fix the amount of all Assessments, the date of commencement for each Assessment, and the due date of such Assessment, on a per Lot basis, at least thirty (30) days in advance of any such commencement date, and shall at that time, prepare a roster of the Lot Owners and Assessments applicable thereto, which roster shall be kept in the office of the Association and shall be open to inspection by any Owners. Written notice of the amount of the Assessment, the commencement and due dates shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement.

6. Date of Commencement and Due Date for Assessments: The liability of a Lot and Lot Owner(s) for any Assessment shall commence on the date or dates (which shall be the first day of a month) fixed by the Board in the resolution authorizing such Assessment. The due date of any such Assessment (which may be different from the commencement date) shall also be fixed in the resolution authorizing such Assessment (but which need not be the first day of a month). Such Assessments shall be payable in advance in monthly, quarterly, semi-annual or annual installments, as so fixed in the resolution authorizing the Assessment. The Developer and Builder(s) are exempt from Assessments during the development and construction phases.

7. Allocation of Assessment: The Board shall allocate a portion of each Assessment to each Lot in the proportion that each Lot bears to the total number of Lots within the Property.

8. Certificates Concerning Assessments: The Association shall, upon demand at any time, furnish to any Owner liable for any Assessment or his designee a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

9. Liability of Owners for Assessments: No Owner may exempt himself from liability for any Assessment levied against his Lot by waiver of the use or enjoyment of any of the Common



Areas, or by abandonment of the Lot or in any other manner.

10. Effect of Non-Payment of Assessments: The Lien, the Personal Obligation: Remedies of the Association:

(a) If any Assessment or other charge or lien provided for herein is not paid in full on the due date set by the Board, then such Assessment charge or lien shall become delinquent on the fifteenth (15th) day thereafter, and together with interest thereon and cost of collection thereof as are hereinafter provided, thereupon become a continuing lien on the Lot encumbered thereby, and also the personal obligation of its Owner, his heirs, and his or its successors and/or assigns. The personal obligation of any Owner to pay such Assessment, however, shall remain his or its personal obligation and shall not pass to any successors or assigns unless expressly assumed by them.

(b) If any Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of delinquency at twelve (12%) percent per annum, and the Association may bring an action against the Owner personally obligated to pay the same and/or commence the foreclosure of the aforesaid lien against the Lot in like manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, and there shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include the aforesaid interest on the Assessment as above provided and reasonable attorney's fees to be fixed by the court, together with the costs of the action. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien. Any person (except an Institutional Mortgagee) who shall acquire by whatever means, any interest in the ownership of any Lot, or who may be given or acquire a mortgage, lien or other encumbrance thereon, is hereby placed on notice of the lien granted to the Association and shall acquire his interest in any Lot expressly subject to any such lien of the Association.

(c) The lien herein granted to the Association shall be perfected by recording a Claim of Lien in the Office of the Judge of Probate of St. Clair County, Alabama, stating the description of the Lot encumbered thereby, the name of its Owner, the amount due and the date when due. The lien shall continue in effect until all sums secured by it, as herein provided, shall have been fully paid. Such Claim of Lien shall include only Assessments which are due and payable when the Claim of Lien is recorded, plus interest, late charges, collection costs, attorneys' fees and advances to pay taxes, prior encumbrances and other proper charges together with interest thereon, all as provided herein. Such Claim of Lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such Claim of Lien, the same shall be satisfied of record. No sale or other transfer of a Lot shall relieve any Owner from liability for any Assessment due before such sale or transfer, nor from the lien of any such Assessment. The written opinion of an officer of the Association that any lien is subordinate to any given mortgage shall be deemed to be dispositive of that issue.

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(d) The lien of any Assessments shall be subordinate to the lien of any Institutional Mortgagee bearing a recording date in the Office of the Judge of Probate of St. Clair County, Alabama, prior to the date of recording the Association's Claim of Lien. Where an Institutional Mortgagee obtains title to a Lot as a result of its mortgage or where any Institutional Mortgagee or its designee accepts a deed to a Lot in lieu of foreclosure, such acquiror of title, its successors and assigns, shall not be liable for any Assessment pertaining to such Lot or chargeable to the former Owner which became due prior to the acquisition of title to such Lot, unless such delinquent Assessment was secured by a Claim of Lien recorded prior to the recordation of the Institutional Mortgagee's mortgage. Such unpaid Assessments shall be instead collectible from all Owners, including such acquiror, its successors and assigns. Nothing herein contained shall be construed as releasing the party liable for such delinquent assessments from the payment thereof by means other than foreclosure.

(e) Any person who acquires an interest in a Lot, except an Institutional Mortgagee as specifically provided above, including, but not limited to, persons acquiring title by operation of law or at a judicial sale, shall not be entitled to occupancy of the Lot or the use or enjoyment of the Common Areas until such time as all unpaid Assessments due and owing by the former Owner have been paid in full. Any party who has a contract to purchase a Lot, or who proposes to make a loan secured by a mortgage on a Lot, may, by written request, inquire of the Association whether the Lot is subject to any Assessments and the due date of any such Assessments and the amount of interest due on any delinquent Assessments and an authorized representative of such Association shall give the requesting party a written response, providing all such information, within ten (10) days of the Association's receipt of such inquiry and such response shall be binding upon the Association. If the response is incorrect or if the Association does not make such response within said ten-day period, any such Assessment shall not be an obligation of such purchaser or a lien on the Lot, but shall continue to be a personal obligation of the Owner of the Lot.

(f) The Association shall have the right to assign its claim of Lien, and any other lien rights provided for in this Article, for the recovery of any unpaid Assessments to the Developer, to any Owner or group of Owners or to any third party.

## ARTICLE VIII

### Miscellaneous

1. Seal: The seal of the Association shall be circular in form and shall contain the name of the Association and the year of its creation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.
2. Bank Accounts: The Board of Directors may, from time to time, by resolution authorize the maintenance of one or more deposit accounts by the Association. All checks, drafts, or other orders for the payment of money issued in the name of the Association shall be signed by such

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officer of officers, agent or agents of the Association, and in such manner as shall be determined from time to time by resolution of the Board of Directors.

3. Notice: Whenever any notice or demand is required to be give by these By-Laws or the Declaration, any notice or demands so required shall be deemed sufficient if given by delivering same in person, or depositing the same in the United States mail, postage prepaid, addressed to the person entitled thereto at his last known post office address according to the records of the Association, and such notice shall be deemed given on the day of such mailing.

4. Waiver of Notice: Whenever any notice whatever is required to be given under the provisions of any law, or under the provisions of the Articles of Incorporation, these By-Laws or the Declaration a waiver thereof in writing, signed by the person or persons entitled to said notice, whether signed before or after the time stated therein, shall be deemed equivalent thereof.

5. Conflict: In the event of any conflict between the provisions of these By-Laws and the Declaration of Protective Covenants, the Declaration shall govern.

## ARTICLE IX

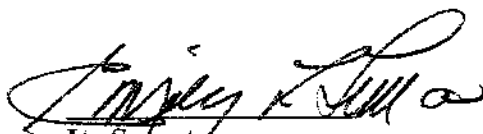
### Amendments

These By-Laws may be amended or modified from time to time by the vote of a majority of the Board of Directors, any such amendment to be set forth in writing, singed by the Secretary of the Board of Directors and recorded in the St. Clair County Probate Office. Upon recording, each such amendment shall be effective.

The foregoing were adopted as the By-Laws of Ivy Place Homeowner's Association, Inc., ~~and~~ Alabama not-for-profit corporation, at the first meeting of the Board of Directors on the 18<sup>th</sup> day of October, 2004.

ATTEST:

Ivy Place Homeowner's Association, Inc.

  
Its Secretary

(SEAL)

By:   
Its President

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