

STATE OF ALABAMA
SHELBY COUNTY

109
CERTIFICATE OF INCORPORATION
OF

ALABASTER NURSERY AND GARDEN CENTER, INC.

TO THE HONORABLE JUDGE OF PROBATE IN AND
FOR SHELBY COUNTY, ALABAMA

The undersigned, Cecil E. Lane, and Robert D. Wilson, being over the age of twenty-one years, desiring to organize a body corporate under the laws of the State of Alabama, and being all of the subscribers to the capital stock of the corporation hereby organized, do make, sign and file this certificate of incorporation:

1. The name of the corporation is :

Alabaster Nursery and Garden Center, Inc.

2. The objects and purposes for which the corporation is formed are:

(a) To acquire, grow and sell or otherwise dispose of plants of every nature, kind, and description, including, but not limited to, shrubs, trees, grasses, flowers, and any other items necessarily incident thereto; to provide landscape services and any other activities necessarily incident thereto; to provide consultation for any and all commercial and residential clients; to acquire all such merchandise, supplies, materials and other articles as shall be necessary or incidental to such business; and to have any powers to carry out the purposes above set forth as fully as natural persons, whether as principals, agents, trustees, or otherwise.

(b) To apply for, purchase, or acquire by assignment, transfer or otherwise, and hold mortgage or otherwise pledge, and to sell, exchange, transfer, deal in and in any manner dispose of, real property of any kind, class, interest, or type, license, power, authority, concession, right or privilege which any corporation may make or grant.

(c) To purchase, or otherwise acquire, and to hold, own, mortgage, pledge, sell, transfer, or in any manner dispose of, and to deal and trade in goods, wares, merchandise and personal property of every class and description wherever situated; and to own and operate mines, plants, factories, mills, warehouses, yards, merchandise stores, commissaries and all other installations of whatever character or description, together with the equipment, rolling stock, and other facilities used or useful in connection with or incidental thereto.

(d) To enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.

(e) To enter into any plan or project for the assistance and welfare of its employees.

Willie F. Mathews

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(f) To acquire, hold, use, sell, assign, lease, grant licenses in respect of , mortgage or otherwise dispose of letters patent of the United State of America or any foreign country, patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trademarks and trade names, relating to or useful in connection with any business of this corporation.

(g) To acquire, by purchase, subscription or otherwise, and to own, hold, sell and dispose of, exchange, deal in and deal with stocks, bonds, debentures, obligations, evidences of indebtedness, promissory notes, mortgages and securities executed by any individual or by any corporation, whether public or private, government or municipality or otherwise, and to issue and exchange for all such stocks, bonds, debentures, obligations, evidences of indebtedness, promissory notes, mortgages or securities, the stocks, bonds, debentures, or other evidence of indebtedness of this corporation, and this corporation shall have express power to hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the shares of capital stocks, bonds, debentures, promissory notes, mortgages and securities so acquired by it and to exercise all the powers of a stockholder in any corporation in which it may so acquire shares of capital stock.

(h) To borrow and lend money and to give or take security therefor by way of mortgage, pledge, transfer or assignment of real or personal property, of every nature and description.

(i) To issue bonds, debentures or obligations of this corporation from time to time, for any of the objects or purposes of the corporation, and to secure the same by mortgage, pledge, deed of trust or otherwise.

(j) To purchase or otherwise acquire its own shares of stock (so far as may be permitted by law) and its bonds, debentures, notes, scrip or other securities, or evidence of indebtedness, and to hold, sell, transfer, or re-issue the same.

(k) To have one or more offices to carry on all of its operations and business without restriction or limit as to amount, in any of the states, districts, territories or possessions or colonies of the United States, and in any and all foreign countries, subject to the laws of such states, district, territory, possession, colony or country.

(l) .To do any and all of the things herein set out and such other things as are incidental or conducive to the attainment of the objects and purposes of this corporation, to the same extent as natural persons might or could do and in any part of the world, as principal, factor, agent, contractor, or otherwise either alone or in conjunction with any person, firm, association, corporation or any entity of whatsoever kind, and to do any and all such acts and things and to exercise and any and all such power to the full extent authorized or permitted to a corporation under any laws that may be now or hereafter applicable or available to this corporation.

The foregoing clauses, and each phrase thereof, shall be construed as objects and purposes of this corporation, as well as powers and provisions for the regulation of the business and the conduct of the affairs of the corporation, the directors, and stockholders thereof, all in addition to those powers specifically conferred upon the corporation by law, and it is hereby expressly provided that the foregoing specific enumeration of purposes and powers shall not be held to limit or restrict in any manner the powers of the corporation otherwise granted by law. Nothing herein contained, however, shall be construed as authorizing this corporation to carry on the business

of banking or that of a trust company, or the business of insurance in any of its branches.

3. The address of the initial registered office of the corporation is Route 1 Box 99-A Montevallo, Shelby County, AL 35115.

and the name of its initial registered agent at such address is Cecil E. Lane.

4. The total number of shares of stock which the corporation shall have authority to issue shall be One Hundred (100) shares of common stock of the per value of One Dollar (\$1.00) per share. The mount of capital stock with which the corporation shall begin business shall be One Hundred Dollars, (\$100.00), consisting of 100 shares of the common stock of the per value of \$1.00 per share.

5. (a) The names and post office address of the incorporators are: Cecil E. Lane: Route 1 Box 99-A Montevallo, AL 35115, Robert D. Wilson: Route 5 Box 398 Montevallo, AL 35115.

(b) The names and addresses of the directors chosen for the first year and until their successors are elected and qualified are as follows:

NAME OF DIRECTORS

ADDRESSES

Cecil E. Lane

Route 1 Box 99-A Montevallo, AL
35115

Robert D. Wilson

Route 5 Box 398 Montevallo, AL 35115

(c) The number of Directors constituting the initial Board of Directors of the corporation is 2.

6. The period for the duration of the corporation shall be perpetual.

7. No holder of any stock of this corporation shall be entitled as of right to purchase or subscribe for any part of the authorized by unissued stock of this corporation, or of any additional stock of any class which may be issued by reason of any increase in the authorized capital stock of this corporation, or of warrants, bonds, certificates of indebtedness, debentures, or other securities convertible into stock of this corporation, or carrying any rights to purchase stock of any class. Any such unissued stock or any such additional authorized issue of new stock or of securities convertible into stock or carrying any rights to purchase stock, may be issued and disposed of pursuant to resolutions of the board of directors of this corporation to such persons, firms, corporation or associates, and upon such terms, as may be deemed advisable by the board of directors in the exercise of its discretion.

8. This corporation may, from time to time, lawfully enter into any agreement to which all, or less than all, the holders of record of the issued and outstanding shares of its capital stock shall be parties, restricting the transfer of any or all shares of its capital stock represented by certificates thereof upon such reasonable terms and conditions as may be approved by the board of directors of this corporation, provided that such restrictions be stated upon each certificates representing such shares.

9. The bylaws of the corporation shall contain provisions for the regulation and management of the corporation not inconsistent with any provisions of the certificate of incorporation, and not inconsistent with the laws of the State of Alabama. The initial bylaws of the corporation shall be adopted

by the stockholders. The bylaws of the corporation shall be subject to alteration, admendment, or repeal, and new bylaws may be adopted by the affirmative vote of the holders of a majority of the shares of the common stock present in person or by proxy at any annual or special meeting of the stockholders and entitled to vote thereat, a quorum being present. No amendment decreasing the number of directors shall have the effect of shortening the term of any incumbent director. The bylaws may also be amended in the interim between stockholders' meetings by a majority vote of the board of directors, provided, however, that the board of directors may not alter, amend, or repeal any bylaw establishing the number of directors, the number of directors constituting a quorum at a meeting of the board of directors, the time of place of stockholders' meetings or what constitutes a quorum at such stockholders' meetings.

10. The corporate powers shall be exercised by the board of directors, except as otherwise provided by statute or by this certificate of incorporation. Any action required or permitted to be taken at any meeting of the board of directors or any committee thereof may be taken without a meeting, if prior to such action a written consent thereto is signed by all members of the board of such committee, as the case may be, and such written consent if filed with the minutes of proceeding of the board of committee. In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized to fix and determine and to vary the amount of working capital of the corporation to determine the date or dates for the declaration and payment of dividend; and to direct and determine the use and disposition of any surplus or net profits over and above the capital stock paid in. The corporation may, in its bylaws, confer powers upon its board of directors in addition to the foregoing, and in addition to the powers and authorities expressly conferred upon directors by statute.

11. (a) Subject to the provisions of subsection (b) Hereof, the corporation shall 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 corporation), by reason of the fact that he is or was director, officer, employee or agent of the corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suitor proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any 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 to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) Subject to the provisions of subsection (d) hereof, the corporation shall 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 corporation to procure a judgment in is favor by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's 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 corporation, 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 corporation 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 the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsection (a) or (b) of this section, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's 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.

(d) Any indemnification under subsection (a) or (b) shall (unless ordered by a court) be made by the corporation 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 subsection (a) or (b), as the case may be. 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 quorum is not obtainable, or, even if obtainable, if a quorum of disinterested directors so direct, by independent legal counsel in a written opinion, or (3) by the stockholders.

(e) Expenses (including attorney's fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the corporation in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in the preceding subsection (d) 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 it shall ultimately be determined that he is not entitled to be indemnified by the corporation as authorized in this section.

(f) The indemnification provided by this section shall not be deemed exclusive of, and shall be in addition to, any other rights to which those indemnified may be entitled under any statute, rule of law, provision in the corporation's certificate of incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, 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.

(g) The corporation 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 corporation, or is or was serving at the request of the 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 corporation would have the power to indemnify him against such liability under the provisions of this section.

12. The corporation reserves the right to amend, alter, change or

repeal any provision contained in this certificate of incorporation in this manner now or hereafter provided by law, and all rights conferred upon officer, directors, and stockholders herein are granted subject to this reservation.

IN WITNESS WHEREOF, the undersigned incorporators have hereunto subscribed their signature to this certificate of incorporation this the 21st day of September, 1987.

INCORPORATORS

Cecil E. Lane
CECIL E. LANE

Robert D. Wilson
ROBERT D. WILSON

STATE OF ALABAMA

COUNTY OF SHELBY

I, D. Wilson the undersigned a Notary Public in and for said County, in said State, hereby certify the Cecil C. Lane and Robert, whose names as of Alabaster Nursery and Garden Center, Inc., a Corporation, is signed to the foregoing Certificate and who is know to me, did certify to me on this day that the contents of said Certificate are true and correct.

Given under my hand and seal this 21st day of September, 1987.

Regina Langham
Notary Public

Commission Expires: 10/2/90

This instrument was prepared by William F. Mathews, 2969 Montgomery Hwy. Pelham, Alabama 35124.

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STATE OF ALABAMA

I, Glen Browder, Secretary of State, of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Section 10-2A-26, Code of Alabama 1975, the corporate name Alabaster Nursery and Garden Center, Inc. is reserved

as available based only upon an examination of the corporation records on file in this office for the exclusive use of Alabaster Nursery and Garden Center, Inc.

for a period of one hundred twenty days from this date. In the case of a domestic corporation, the name of the county in which the corporation was or is proposed to be incorporated is Shelby. I further certify that as set out in the

application for reservation of corporate name, the Secretary of State's office does not assume any responsibility for the availability of the corporate name requested nor for any duplication which might occur.



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.

August 10, 1987- expires 12-9-87

Date

Glen Browder

Glen Browder

Secretary of State

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State of Alabama

Shelby County

CERTIFICATE OF INCORPORATION OF

Alabaster Nursery and Garden Center, Inc.

The undersigned, as Judge of Probate of Shelby County, State of Alabama, hereby certifies that duplicate originals of Articles of Incorporation for the incorporation of Alabaster Nursery and Garden Center, Inc., duly signed pursuant to the provisions of the Alabama Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Judge of Probate, and by virtue of the authority vested in him by law, hereby issues this Certificate of Incorporation of Alabaster Nursery and Garden Center, Inc., and attaches hereto a duplicate original of the Articles of Incorporation.

GIVEN Under My Hand and Official Seal on this the 2nd day of October, 19 87.

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1987 OCT -2 AM 8:55

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

Thomas A. Snowden, Jr.
Judge of Probate

Rec 35.00
Jud 1.00
36.00

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