

**ARTICLES OF INCORPORATION
OF
WEATHERLY HIGHLANDS RESIDENTIAL ASSOCIATION, INC.**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Act (Code of Alabama (1975), Sections 10-3A-1, et seq.) Hereby adopts the following Articles of Incorporation and certifies as follows:

1. **NAME.** The name of the corporation is "Weatherly Highlands Residential Association, Inc." (The "Association").

2. **DURATION.** The period of duration of the Association shall be perpetual.

3. **PURPOSES.** The purposes for which the Association is organized are:

(a) To provide for the efficient preservation of the appearance, value and amenities of the "Development", as herein defined. As used herein, the term "Development" shall mean and refer to any portion of the real property described in Exhibit A attached hereto and incorporated herein by reference which is developed by Developer", as hereinafter defined, for "Residential Lots", as hereinafter defined. As used herein, the term "Developer" shall mean and refer to Weatherly Partners, L.L.C., an Alabama limited liability company, its successors and assigns. As used herein, the term "Residential Lot" or "Residential Lots", whether used in the singular or plural tense, shall mean and refer to any real property within the Development which has been or will be developed for single-family residential purposes, including, without limitation, attached or detached residential dwellings, townhouses, condominiums, cooperatives, duplexes, garden homes, patio homes, zero-lot-line homes, cluster homes or any other types of single-family dwellings. As of the date hereof, a portion of the Development is subject to the Declaration of Protective Covenants for Weatherly Highlands, The Ledges-Sector 26-Phase One and recorded as Instrument #2000-14750 in the Office of the Judge of Probate of Shelby County, Alabama, (which, together with all amendments thereto and all subsequent protective covenants which refer to this Association as the entity which will collect assessments and maintain the Common Area of the Development and otherwise exercise the rights and remedies of the Owner's Association described in such protective covenants and all amendments thereto, are hereinafter collectively referred to as the "Protective Covenants"). Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Protective Covenants.

(b) To own, operate, maintain, manage, repair and replace Common Area of the Development.

(c) To the extent provided in the Protective Covenants, to control the specifications, architecture, design, appearance, siting and landscaping of all improvements to be constructed, placed or permitted to remain on any Residential Lot in the Development and all alterations, changes and additions thereto.

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(d) To perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Protective Covenants, these Articles of Incorporation, the Bylaws of this Association and amendments thereto.

(e) To own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, of every kind, character and description.

(f) To enforce all of the terms and provisions of the Protective Covenants and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Development.

(g) To make, levy, collect and enforce assessments, as provided in the Protective Covenants, and to use and expend such assessments in the manner set forth in the Protective Covenants and the Bylaws of the Association.

(h) to employ personnel and contract for services, material and labor, including contracting for the management of the Common Area and all other portions of the Development.

(i) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates and with deductibles as may be necessary for the protection of the Association, its officers and members.

(j) To enforce any of the provisions of the Protective Covenants by legal and equitable actions as may from time to time be necessary.

(k) 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.

(l) To operate without profit for the sole and exclusive benefit of its members.

(m) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Act, as amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with and subject to the terms and provisions of the Protective Covenants.

THIS ASSOCIATION DOES NOT CONTEMPLATE PECUNIARY GAIN OR PROFIT FOR THE MEMBERS THEREOF AND THE FUNDS OF THE ASSOCIATION, WHETHER RECEIVED BY GIFT OR OTHERWISE, REGARDLESS OF THE SOURCE THEREOF, SHALL BE EXCLUSIVELY USED IN THE PROMOTION OF THE BUSINESS OF THE

ASSOCIATION, AS THE BOARD OF DIRECTORS MAY FROM TIME TO TIME DETERMINE.

4. **INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Thomas J. Thornton
1119 Willow Run Road
Birmingham, Alabama 35209

5. **NONSTOCK AND NONPROFIT STATUS.** The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the members thereof. No part of the earnings of the Association shall inure to the benefit of any member, individual, officer, or director. The Association does not contemplate the distribution of gains, profits or dividends to the members thereof and is organized solely for nonprofit purposes.

6. **MEMBERS.** The members of the Association shall consist of the owners of all Residential Lots within the Development which, through the Protective Covenants, refer to this Association as the entity which will collect assessments and maintain the Common Area of the Development and otherwise exercise the rights and remedies of the Owner's Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Residential Lot. Developer shall be entitled to all voting rights attributable to any Residential Lots owned by Developer. Notwithstanding anything provided herein or in the Bylaws of the Association to the contrary, for so long as Developer owns any portion of the Development, (a) Developer shall have the sole and exclusive right to (i) elect the Board of Directors of the Association, (ii) appoint the officers of the Association and the members of the Committee, as defined in the Protective Covenants, (iii) remove and replace any members of the Board of Directors of the Association, the officers of the Association and the members of the Committee, (iv) amend these Articles of Incorporation and the Bylaws, (v) amend the Protective Covenants (subject to the limitations set forth in therein) and (vi) take all other action on behalf of the Association and vote on all other matters required to be voted on or approved by the members of the Association (except to the extent all members of the Association are entitled to vote on the matters described in item (b) below of this Paragraph 6); and (b) the voting rights of the members of the Association shall be limited to (i) approving any special assessments as provided in the Protective Covenants or Bylaws of the Association and (ii) approving amendments to the Protective Covenants if such approval is required pursuant to the provisions of the Protective Covenants. As long as Developer owns any portion of the Development, the members shall have no voting rights or privileges in the Association except as specified in item (b) of this Paragraph 6. At such time as Developer no longer owns any portion of the Development, the members shall be entitled to vote on all of the foregoing matters subject to any restrictions set forth in the Protective Covenants. The voting rights of any member may be limited and suspended in accordance with the provisions of the Bylaws.

7. DIRECTORS.

(a) **Number of Directors.** The affairs of the Association shall be managed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). Thereafter, the number of Directors shall be fixed in the manner provided in the Bylaws and may thereafter be increased or decreased from time to time by amendment to or in the manner provided in the Bylaws; provided, however, that (i) the number of Directors shall in no event consist of less than three (3) Directors, (ii) no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director, (iii) Developer shall have the right to elect all members of the Board of Directors of the Association as long as Developer owns any portion of the Development and (iv) at such time as Developer no longer owns portion of the Development or if, pursuant to the provisions of the Bylaws of the Association, Developer elects to relinquish all of the foregoing rights, then the members of the Association shall elect a new Board of Directors of the Association. So long as Developer has consented, the Directors need not be owners of any portion of the Development or residents of the State of Alabama. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 7(b) of these Articles are as follows:

Patrick A. Thornton
1119 Willow Run Road
Birmingham, Alabama 35209

Thomas J. Thornton
1119 Willow Run Road
Birmingham, Alabama 35209

Robert C. Sinclair
1119 Willow Run Road
Birmingham, Alabama 35209

(b) **Removal.** For so long as Developer owns any portion of the Development, Developer shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board, in each case without any consent or approve of any of the members. At such time as Developer no longer owns any portion of the Development, the members of the Association shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board shall be filled as provided in the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in any of the Protective Covenants, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the

Association shall be managed under the direction of, the Board of Directors.

(d) **Conflicts of Interest**. No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association or entity of which any Director of the Association is a director or officer or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the Association may vote on 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. Notwithstanding anything provided to the contrary in these Articles of Incorporation or the Bylaws, Developer or an affiliate of Developer shall be employed as the manager of the Association and the Development for so long as Developer owns any Lot in the Development.

8. **INCORPORATORS**. The name and address of each incorporator is as follows:

Thomas J. Thornton
1119 Willow Run Road
Birmingham, Alabama 35209

9. **DISTRIBUTION OF ASSETS UPON DISSOLUTION**.

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration by Developer shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part); and

(ii) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the members of the Association, as tenants in common, with each member's share of the assets to be determined in accordance with its voting rights.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama

10. **POWER OF PRESIDENT AND VICE PRESIDENTS TO EXECUTE DOCUMENTS.** The President and each Vice President of the Association shall each have authority to execute all instruments, documents and contracts on behalf of the Association.

11. **INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.**

(a) The Association 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 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 expense (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 interest 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 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 interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was not unlawful.

(b) The Association 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 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 interest of the Association; provided, however, 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 willful, deliberate or wanton 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 court shall deem proper.

(c) 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 11(a) and (b) above, 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.

(d) Any indemnification under Paragraphs 11(a) and (b) above (unless ordered by a court) shall be made by 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 11(a) or (b) above. 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, if a quorum of disinterested Directors so directs, by independent, legal counsel in a written opinion, or (3) by a majority vote of the members of the Association.

(e) 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 Paragraph 11(d) above 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 Paragraph 11.

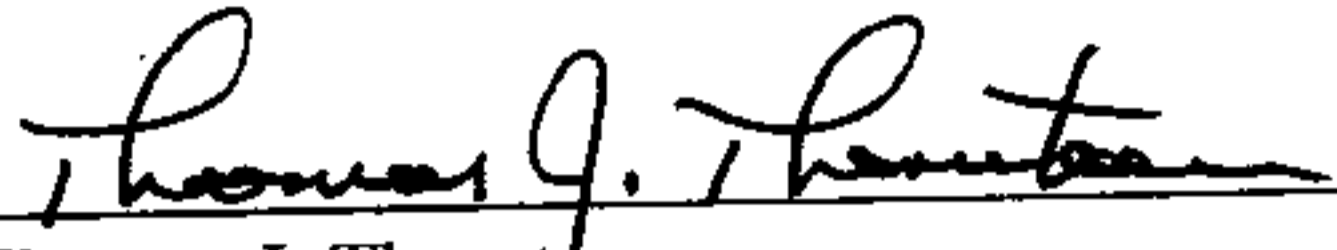
(f) The indemnification authorized by this Paragraph 11 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, Bylaw, agreement, vote of members or disinterested 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.

(g) The Association shall have 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 provisions of this Paragraph 11.

12. **AMENDMENT.** For so long as Developer owns any portion of the Development, these Articles of Incorporation may be amended at any time and from time to time by Developer or by the vote of the Board of Directors of the Association, without the consent or approval of any of the members of the Association. At such time as Developer no longer owns any portion of the Development, then these Articles of Incorporation may be amended, subject to the terms and provisions of the Protective Covenants, by the affirmative vote of fifty-one percent (51%) of the total

votes in the Association.

IN WITNESS WHEREOF, the undersigned Incorporator has hereunto subscribed his name to these Articles of Incorporation as of this the 4th day of MAY, 2000.


Thomas J. Thornton
Incorporator

Weatherly Highlands Articles of Incorporation

EXHIBIT "A"

PARCEL 1

All of Section 28, Township 20 South, Range 2 West, and
The North one-fourth of Section 33, Township 20 South, Range 2 West, and
The North one-half of the Northwest Quarter and the Northeast Quarter of the Northeast Quarter of
Section 32, Township 20 South, Range 2 West and
The South one-half of Section 31, Township 20 South, Range 2 West, and
The East one-half of the Northeast Quarter of Section 31, Township 20 South, Range 2 West.
Less and except that portion known as Survey of Weatherly-Windsor Sector 11, recorded in Map
Book 18, Page 80; Weatherly Sector 13 recorded in Map Book 22 Page 003; Weatherly Sector 15
recorded in Map Book 19 Page 122, and recorded in Map Book 20 Page 8; Weatherly Sector 16
recorded in Map Book 19 Page 151; Weatherly Sector 17 recorded in Map Book 20 Page 86, and
recorded in Map Book 21, Page 110; Weatherly Sector 18 recorded in Map Book 21 Page 148;
Weatherly Sector 21 recorded in Map Book 20 Page 7; Weatherly Sector 22 recorded in Map Book
21 Page 59; Weatherly Sector 23 recorded in Map Book 21 Page 16; Weatherly Sector 24 recorded
in Map Book 20 Page 144, and Weatherly Sector 25 recorded in Map Book 21 Page 001, all recorded
in the Office of the Judge of Probate, Shelby County, Alabama;

Also, less and except the property described in that certain Warranty Deed to the City of Pelham,
Alabama, (GRANTEE) recorded in Instrument #1999-47823 in the Office of the Judge of Probate,
Shelby County, Alabama.

PARCEL 2

The Northwest Quarter of the Northeast Quarter of Section 32, Township 20 South, Range 2 West,
and
The Southwest 1/4 of the Northwest 1/4 and the West one-half of the Southeast 1/4 of the Northwest
1/4, all in Section 32, Township 20 South, Range 2 West, all of said parcels are situated in Shelby
County, Alabama.

PARCEL 3

A parcel of land situated in Section 33, Township 20 South, Range 2 West, and being more
particularly described as follows:

Begin at the NW corner of the SW1/4 of NW1/4 of Section 33, Township 20 South, Range 2 West;
thence S 87 degrees 34' 13" East a distance of 3000.00'; thence S 54 degrees 23' 13" West a distance
of 3730.91'; thence N 0 degrees 53' 51" East a distance of 983.26'; thence N 0 degrees 53' 17" East
a distance of 1316.74' to the point of beginning.

PARCEL 4

The Southwest Quarter; the South One-Half of the Northeast Quarter; and the Southeast Quarter, all in Section 27, Township 20 South, Range 2 West, and
The North One-Half of the Northwest Quarter; and the North One-Half of the Northeast Quarter, all in Section 34, Township 20 South, Range 2 West, all of said parcels are situated in Shelby County, Alabama.

PARCEL 5

Begin at the SE corner of Section 29, Township 20 South, Range 2 West and proceed Northerly on the E boundary of Section 29, 4761.79 feet; thence turn S 52 degrees 22 minutes 25 seconds W a distance of 1060.75 feet; thence turn S 41 degrees 25 minutes 19 seconds W a distance of 840.19 feet; thence turn S 34 degrees 22 minutes 38 seconds W a distance of 2074.81 feet; thence turn S 24 degrees 11 minutes 52 seconds E a distance of 282.99 feet; thence turn S 37 degrees 7 minutes 24 seconds W a distance of 1611.65 feet; thence turn S 82 degrees 37 minutes 6 seconds E a distance of 738.93 feet; thence proceed in an easterly direction for a distance of 2655.99 feet to the point of beginning. Said property lies in Section 29, Township 20 South, Range 2 West. Containing approximately 187 acres.

Begin at the NE corner of Section 28, Township 20 South, Range 2 West and proceed S 89 degrees 3 minutes 46 seconds W along the Northern boundary of said Section 28 a distance of 1314.30 feet to the point of beginning; thence turn N 2 degrees 0 minutes 49 seconds E a distance of 2632.34 feet; thence turn N 84 degrees 37 minutes 27 seconds W a distance of 1284.38 feet; thence turn S 40 degrees 24 minutes 20 seconds W a distance of 3078.00 feet to a point along the N boundary of Section 28; thence S 82 degrees 46 minutes 09 seconds E a distance of 602.30 feet; thence in an easterly direction a distance of 2605.03 feet more or less to the point of beginning. Said property lies in Section 21, Township 20 South, Range 2 West. Containing approximately 130 acres.

Weatherly Highlands Property

State of Alabama

SHELBY

County

CERTIFICATE OF INCORPORATION

OF

WEATHERLY HIGHLANDS RESIDENTIAL ASSOCIATION, INC.

The undersigned, as Judge of Probate of SHELBY County, State of Alabama, hereby certifies that duplicate originals of Articles of INCORPORATION of WEATHERLY HIGHLANDS RESIDENTIAL ASSOCIATION, INC., duly signed and verified pursuant to the provisions of Section NON-PROFIT 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 WEATHERLY HIGHLANDS RESIDENTIAL ASSOCIATION, INC., and attaches hereto a duplicate original of the Articles of INCORPORATION.

GIVEN Under My Hand and Official Seal on this the 4TH day of MAY, 2000.

Alvin George Submitt

Judge of Probate
Inst # 2000-14751

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