

PROTECTIVE COVENANTS FOR PHOENIX LANDING

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being all the owners of and all parties having any right, title or interest in that subdivision known and designated on the map or plat prepared by White, Lynn, Collins & Associates, Inc., known and designated as "PHOENIX LANDING", and recorded in the office of the Judge of Probate of Lauderdale County, Alabama, in Plat Book Number 5 on Page 156, hereby impose upon all of the lots of the aforesaid subdivision, according to the plat thereof, the following covenants and restrictions:

I.

(a) All lots in said subdivision shall be used for residential purposes only; and no structure; other than one-family dwellings, and appurtenant garages and outbuildings shall be erected, placed or permitted to remain on any residential building lot or combination of lots not keeping with such purposes, and one-family dwellings shall not exceed two and one-half stories in height.

(b) No structure of any kind shall be built on said property until the plans and plot plan for the same have been approved by the "Architectural Control Committee", which approval shall not be unreasonably withheld.

II.

All dwellings constructed upon said property shall be of the permanent residential type. Manufactured or pre-fabricated buildings may be constructed with the specific approval of the "Architectural Control Committee". All dwellings except those within the Planned Residential Development Portion, as shown by the recorded plat of said subdivision, must have a finished living area, exclusive of basements, outbuildings, carports, garages, terraces, porches and the like, at least 1,500 square feet. All said dwellings must have a carport or garage.

III.

(a) The use of asbestos, composition or asphalt exterior siding, is expressly prohibited, except that asbestos shingles may be used in the gables or roof. Further, the use of "perma-stone" or similar material is expressly prohibited. When concrete block is used for foundations or for the exterior walls in a residence, it must be covered with concrete, stucco or plaster. All driveways of said subdivision shall be of hard surface such as concrete, asphalt or brick.

(b) No building structure shall be located on any lot nearer than eight feet to the side lot line, on the carport or garage side of the residence, or nearer than eight feet on the other side of the residence. This covenant shall not affect those lots designated as being within the Planned Residential Development portion of the subdivision. The building setback line is shown on the recorded plat. No building in said subdivision shall be located on any lot nearer the rear lot line than ten feet or nearer than twenty-five feet to any side street except lots No. 6, 8, and 11, the restrictions for which shall be left up to the "Architectural Control Committee". Before construction is started on any house upon such lots, the plot plan and house plan therefor shall be submitted for approval by the "Architectural Control Committee" showing the location of the house on said lot. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building, on a lot, to encroach upon another lot. Where the phrase "lot line" is used, the same shall be construed to mean the property ownership line if the context so indicates.

IV.

No basement, tent, shack, garage, barn or other out-building on any lot in said subdivision shall at any time be used as a residence, temporary or permanent, nor shall



any truck, trailer, bus body, mobile home, camper, or like structure be parked upon or in the street abutting, or erected upon said property or used as a residence, temporary or permanent, nor shall any residence of a temporary character be permitted, with regard to construction or structure involved. No sheds, storehouses or the like will be permitted on any lot except with the written approval of the "Architectural Control Committee".

V.

No fences shall be placed on any lot except upon written approval of the "Architectural Control Committee" and no fence shall in any event be allowed within fifty feet of the front property line except that in case of corner lots, no fence in any event may be constructed closer to the front property line than the minimum building setback line.

VI.

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose. No lot may be used for agricultural purposes, except that a private vegetable garden may be maintained on the rear 1/3 of each lot.

VII.

No business or trade of any kind, or other commercial enterprise or noxious or offensive activity, shall be engaged in or carried on upon any lot, or on said property, nor shall anything be done therefore which shall be or may become an annoyance, danger, or a nuisance to the neighborhood.

VIII.

The street frontage on all lots shall be maintained clean, neat and free of undergrowth at all times and no noxious or offensive conditions shall be continued

thereon. No lot shall be used or maintained as a dumping ground for rubbish or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers; and all incinerators or other equipment for the storage or disposal of such material should be kept in a clean and sanitary condition.

IX.

No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

X.

No sign of any kind shall be displayed in public view on any lot except one professional sign of not more than two square feet, one side of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales.

XI.

Perpetual easements are reserved for utility installation and maintenance as set forth on said recorded plat.

XII.

The "Architectural Control Committee" for such subdivision shall consist of Patrick Swanson, K. Swanson, and Eldon McDaniel, all of Florence, Alabama. A majority of the Committee may designate a representative to act for it or cast any vote. Any vote on any question presented to the Committee may be presented orally in any Committee meeting or

in writing whether or not such parties may be present at such meeting. The members of such Committee shall serve until they shall resign, or be removed by death, and the remaining members, or member, shall have full authority to designate a successor, or successors, in any case.

XIII.

At any time, the then record owners of two-thirds of the lots in any said subdivision shall have the power through a duly acknowledged instrument to change the membership of the "Architectural Control Committee" or to withdraw from the Committee or restore to it any of its powers or duties. The "Architectural Control Committee" shall be vested with authority and power to pass upon, by approval or disapproval, any changes in the architectural requirements for any structure as designated in these covenants. Any desired deviation or change shall be presented to the "Architectural Control Committee" in writing and the approval or disapproval as required in these covenants by such Committee shall be in writing. In the event the Committee, or its designated representative fails to approve or disapprove within thirty days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the proposed construction has been commenced prior to the substantial completion of construction, approval will not be required and the related covenants shall be deemed to have been fully complied with. The term "record owner" shall not include mortgagees or lien holders.

XIV.

Whenever, in the unanimous opinion of the members of the "Architectural Control Committee" no substantial damage will be done to anyone owning any parcel of land in the subdivision, it shall have full authority, anything



in these protective covenants to the contrary notwithstanding, to waive or allow any violation of paragraphs II and III of these protective covenants, whether such violation be present or prospective. Such waiver to be effective must be reduced to writing over the signature of each member of the Committee, and acknowledged by each member of the Committee, before a Notary Public.

XV.

(a) These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of forty years from the date these covenants are recorded, after which time said covenants shall automatically extend for successive periods of ten years each, unless an instrument in writing, executed as aforesaid, changing or abandoning said covenants has been recorded as above stated.

(b) If the parties hereto, or any of them or their heirs or assigns or successors shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person, or firm owning any real property covered by these covenants to prosecute any proceeding at law or in equity against the person or persons or other parties or entities violating or attempting to violate any such covenant, and either to prevent such violations, or to recover damages for the same.

(c) Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in force and effect.

IN WITNESS WHEREOF, witness the hands and seals of the undersigned on this the 15<sup>th</sup> day of August, 1986.

OWNER:

Swanson-McDaniel, Inc.

Elton Daniel  
Attest

By: Patrick Swanson  
Its President

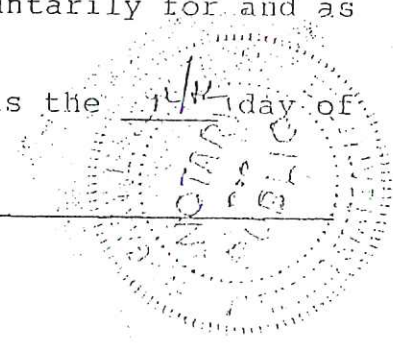
STATE OF ALABAMA

LAUDERDALE COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Patrick Swanson, whose name as President of Swanson-McDaniel, Inc. 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, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 14<sup>th</sup> day of August, 1986.

Henry P. Gordon  
NOTARY PUBLIC



STATE OF ALABAMA  
LAUDERDALE COUNTY  
I CERTIFY THIS  
INSTRUMENT TO BE  
FILED  
Aug 15 11 32 AM '86  
H. Williams  
JUDGE OF PROBATE

STATE OF ALABAMA,  
LAUDERDALE COUNTY, PROBATE COURT.

I hereby certify that the foregoing instrument was filed to record in this office on Aug. 15, 1986 at 11:32 AM o'clock and duly recorded in FICHE 86-0168 From B006-B012 Deed Tax \$ 17.50 Mig. Tax - Fee 17.50

William Williams Judge of Probate

10641

FICHE 86-0168 FRAME 2013

ARTICLES OF INCORPORATION  
OF  
PHOENIX LANDING HOMEOWNERS ASSOCIATION

In compliance with the requirements of Code of Alabama, 1975, Sections 10-3-1 through 10-3-172, the undersigned, all of whom are residents of Florence, Lauderdale County, Alabama, and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I

The name of the corporation is "Phoenix Landing Homeowners Association", hereinafter sometimes called the "Association".

ARTICLE II

The initial registered office of the corporation is located at 227 Cox Creek Parkway, Florence, Alabama 35630.

ARTICLE III

Patrick Swanson, whose address is 227 Cox Creek Parkway, Florence, Alabama 35630, is hereby appointed the initial registered agent of this corporation.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residential Lots and

25.00 probate  
20.00 Sec of Sta.



Common Area within jurisdiction of this Association in furtherance of this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of the Judge of Probate of Lauderdale County, Alabama, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments and liens pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incidental to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized

under the Non-Profit Corporation Law of the State of Alabama by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Each person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to two (2) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal fifty percent (50%) of the total votes outstanding in the Class B membership; or
- (b) on January 1, 1990.



ARTICLE VII

BOARD OF DIRECTORS

The internal affairs of this Association shall initially be managed by a board of three (3) directors. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors as hereinafter provided are:

Patrick Swanson, 227 Cox Creek Parkway, Florence, AL 35630

K. Swanson, 227 Cox Creek Parkway, Florence, AL 35630

Eldon McDaniel, 310 E. Tennessee St., Florence, AL 35630

At the first annual meeting the members shall elect three directors for a term of one year, three directors for a term of two years, and three directors for a term of three years; and at each annual meeting thereafter the members shall elect three directors for a term of three years. Directors need not be members of the Association. A change in the number of directors and their terms of office may be made by amending the By-laws of the Association.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association



was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX

DURATION

The corporation shall exist perpetually.

ARTICLE X

AMENDMENTS

Amendment of these Articles shall require the assent of seventy-five (75%) percent of the entire membership of the Association.

ARTICLE XI

FHA/VA APPROVAL

So long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Area, dedication of Common Area, dissolution and amendment of these Articles.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Alabama, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 14<sup>TH</sup> day of AUGUST, 1986.



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Patrick Swanson  
Patrick Swanson

K. Swanson  
K. Swanson

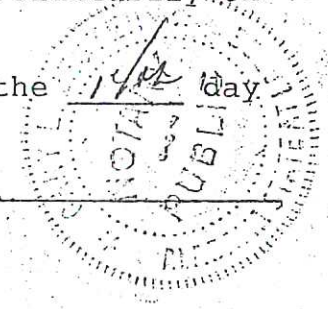
Eldon McDaniel  
Eldon McDaniel

STATE OF ALABAMA  
LAUDERDALE COUNTY

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Patrick Swanson, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 14th day of August, 1986.

[Signature]  
NOTARY PUBLIC

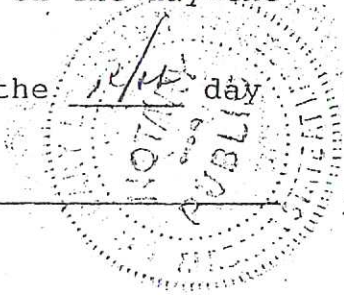


STATE OF ALABAMA  
LAUDERDALE COUNTY

I, the undersigned, a Notary Public in and for said County and State, hereby certify that K. Swanson, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 14th day of August, 1986.

[Signature]  
NOTARY PUBLIC



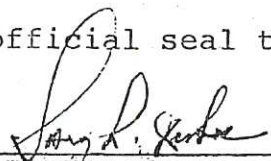
STATE OF ALABAMA

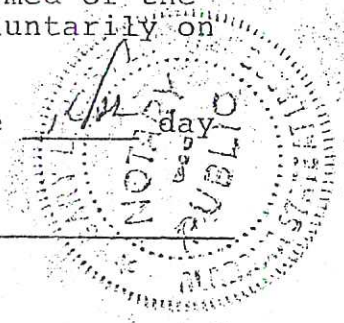
FICHE 86-0168 FRAME C005

LAUDERDALE COUNTY

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Eldon McDaniel, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 14th day of April, 1986.

  
\_\_\_\_\_  
NOTARY PUBLIC





# State of Alabama

## LAUDERDALE County

### CERTIFICATE OF INCORPORATION OF

PHOENIX LANDING HOMEOWNERS ASSOCIATION

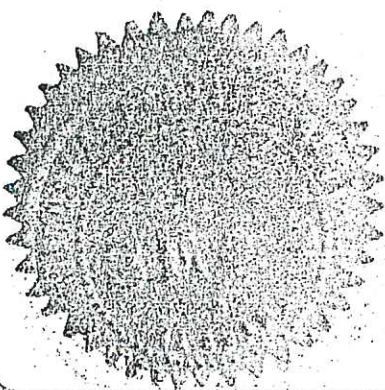
The undersigned, as Judge of Probate of Lauderdale County, State of Alabama, hereby certifies that duplicate originals of Articles of Incorporation for the incorporation of PHOENIX LANDING HOMEOWNERS ASSOCIATION, duly signed pursuant to the provisions of Section 64 of the Alabama Business Corporation 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 PHOENIX LANDING HOMEOWNERS ASSOCIATION, and attaches hereto a duplicate original of the Articles of Incorporation.

GIVEN Under My Hand and Official Seal on this the Fifteenth day of August, 19 86.

STATE OF ALABAMA  
LAUDERDALE COUNTY  
I HEREBY CERTIFY THIS  
AUG 15 11 32 AM '86  
JUDGE OF PROBATE

William B. Duncan  
Judge of Probate



STATE OF ALABAMA,  
LAUDERDALE COUNTY, PROBATE COURT  
I hereby certify that the foregoing Instrument was  
filed to record in this office on Aug 15, 1986  
at 11:32 AM o'clock and duly recorded in Fiche  
86-0168 Frame B013-C006 Deed Tax  
\$ 25.00 Mig. Tax - Fee 25.00

William B. Duncan  
Judge of Probate