

APPROVED  
AND  
FILED  
*[Signature]*  
IND. SECRETARY OF STATE

ARTICLES OF INCORPORATION  
OF  
THE BROOKHAVEN-FIELDSTONE  
MASTER HOMEOWNERS ASSOCIATION, INC.

2006 FEB 25 10:01 AM

The undersigned Incorporator, desiring to form The Brookhaven-Fieldstone Master Homeowners Association, Inc. ("Corporation"), as a corporation pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended ("Act"), hereby execute the following Articles of Incorporation ("Articles of Incorporation"):

ARTICLE I

Name

The name of the Corporation is THE BROOKHAVEN-FIELDSTONE MASTER HOMEOWNERS ASSOCIATION, INC.

ARTICLE II

Purposes

This Corporation is a mutual benefit corporation. The purposes for which the Corporation is organized, and will at all times be operated, are exclusively:

Section 1. To provide, as a "homeowners association" and "residential real estate management association" described in Section 528 of the Internal Revenue Code of 1986, as amended (the "Code"), or corresponding provisions of any future United States internal revenue laws, for the acquisition, construction, management, maintenance and care of "association property" (as defined in said Section 528 of the Code, or the corresponding provisions of any future United States internal revenue laws) of the Corporation; and

Section 2. To promote the health, safety, common good and social welfare of the owners of property in and residents of the residential subdivisions known as Brookhaven and Fieldstone and located on all or a portion of the real estate described in the attached Exhibit A, specifically with regard to their joint use of pool facilities and other amenities to be owned and operated by the Corporation.

ARTICLE III

Powers

Subject to and in furtherance of the purposes for which it is organized, the Corporation shall have, in addition to the general rights, privileges and powers conferred by law, the following rights, privileges and powers:

Section 1. To exercise all of the powers and privileges and to perform all of the duties and obligations of the "Association" as set forth in the Declaration of Covenants, Conditions, and Restrictions for The Brookhaven-Fieldstone Master Homeowners Association, Inc. dated December 12, 2006, and recorded December 15, 2006, as Instrument No. 200600013476 in the

office of the Recorder of Boone County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), the Declaration being incorporated herein as if set forth at length and all defined terms not defined herein having the meanings set forth therein. This Corporation is referred to as the "Association" in the Declaration;

Section 2. To fix, levy, collect and enforce payment of all charges, assessments, penalties or fines made pursuant to the terms of the Declaration or the By-Laws of the Corporation (the "By-Laws") by any lawful means; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Corporation, including all licenses, taxes or governmental charges levied or imposed against the property of the Corporation;

Section 3. To dedicate, sell or transfer all or any part of the Corporation's property to any public agency, authority or utility for such purposes and subject to such conditions as may be approved by the members as prescribed in the Declaration;

Section 4. To continue as a corporation under its corporate name perpetually;

Section 5. To sue, be sued, complain, and defend in the Corporation's corporate name;

Section 6. To have a corporate seal or facsimile of a corporate seal, which may be altered at will, to use by impressing or affixing or in any other manner reproducing it. However, the use or impression of a corporate seal is not required and does not affect the validity of any instrument;

Section 7. Subject to the terms hereof, to make or amend the By-Laws not inconsistent with the Corporation's Articles of Incorporation or with Indiana law for managing the affairs of the Corporation;

Section 8. To purchase, receive, take by gift, devise, or bequest, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

Section 9. To sell, convey, mortgage, pledge, lease, exchange and otherwise dispose of all or any part of the Corporation's property;

Section 10. To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of any entity;

Section 11. To make contracts and guaranties, incur liabilities, borrow money, issue notes, bonds, and other obligations and secure any of the Corporation's obligations by mortgage or pledge of any of the Corporation's property, franchises, or income;

Section 12. To lend money, invest and reinvest the Corporation's funds, and receive and hold real and personal property as security for repayment, except as provided under applicable law;

Section 13. To be a promoter, a partner, a member, an associate or a manager of any partnership, joint venture, trust, or other entity;

Section 14. To conduct the Corporation's activities, locate offices, and exercise the powers granted to it inside or outside Indiana;

Section 15. To elect directors, elect and appoint officers, and appoint employees and agents of the Corporation, define the duties and fix the compensation of directors, officers, employees, and agents;

Section 16. To pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for the Corporation's current or former directors, officers, employees, and agents;

Section 17. To make donations not inconsistent with law for the public welfare or for charitable, religious, scientific, or educational purposes and for other purposes that further the corporate interest;

Section 18. To impose dues, assessments, admission, and transfer fees upon the Corporation's members;

Section 19. To establish conditions for admission of members, admit members, and issue membership;

Section 20. To carry on a business;

Section 21. To have and exercise powers of a trustee as permitted by law;

Section 22. To purchase and maintain insurance on behalf of any individual who:

(a) is or was a director, an officer, an employee, or an agent of the Corporation;  
or

(b) is or was serving at the request of the Corporation as a director, an officer, an employee, or an agent of another entity;

against any liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director, an officer, an employee, or an agent, whether or not the Corporation would have power to indemnify the individual against the same liability under applicable law;

Section 23. To do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the Corporation;

Section 24. To cease its activities and to dissolve and surrender its corporate franchise;  
and

Section 25. To indemnify any person against liability and expenses, and to advance the expenses incurred by such person, in connection with the defense of any threatened, pending or completed action, suit or proceeding and all appeals thereof, whether civil, criminal, administrative, investigative or otherwise, and whether formal or informal, to the fullest extent permitted by applicable law, or, if not permitted, then to any extent not prohibited by such law, unless otherwise provided in the in the Declaration.

ARTICLE IV  
Period of Existence

The period during which the Corporation shall continue is perpetual.

ARTICLE V  
Registered Agent and Registered Office

Section 1. Indiana Office and Agent. The street address of the Corporation's registered office in the State of Indiana at the time of the filing of these Articles of Incorporation is 6650 Telecom Drive, Suite 200, Indianapolis, Indiana 46278-6278, and the name of its registered agent at such office is Dawn Barnett.

Section 2. Registered Office. The street address of the initial registered office of the Corporation is 6650 Telecom Drive, Suite 200, Indianapolis, Indiana 46278-6278.

ARTICLE VI  
Members

The Corporation shall have members. The characteristics, qualifications, rights, limitations, and obligations of the members are described below.

Each Owner shall, automatically upon becoming an Owner, be and become a member of the Corporation and shall remain a member of the Corporation until such time as his ownership of a Lot ceases, at which time his membership will terminate and the new Owner of his or her Lot shall be and become a member of the Corporation.

Section 1. Classes and Voting Rights. The Corporation shall have three (3) classes of voting membership:

(a) Class A. The "Class A members" shall be all Owners within Brookhaven other than Class C members (unless the Class C membership has been converted to Class A membership). Until the Brookhaven Applicable Date, except for each matter which the Declaration expressly provides shall be approved by all classes of members of the Corporation, the Class A membership shall have no votes with respect to any matter submitted to a vote of the members of the Corporation. From and after the Brookhaven Applicable Date, each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote.

(b) Class B. The “Class B members” shall be all Owners within Fieldstone other than Class D members (unless the Class D membership has been converted to Class B membership). Until the Fieldstone Applicable Date, except for each matter which the Declaration expressly provides shall be approved by all classes of members of the Corporation, the Class B membership shall have no votes with respect to any matter submitted to a vote of the members of the Corporation. From and after the Fieldstone Applicable Date, each Class B member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class B members are entitled to vote.

(c) Class C Members. The “Class C members” shall be Drees and all successors and assigns of Drees as Declarant with respect to the Brookhaven Real Estate and which have been designated by Drees as Class C members in a written notice mailed or delivered to the resident agent of the Corporation. Until the Brookhaven Applicable Date, the Class C members shall be entitled to three (3) Class C memberships equating to three (3) votes on every matter submitted to the Corporation for every Lot owned by such Class C member and for each individually identified parcel of land shown upon, and identified as a “Block” on, any recorded subdivision plat of the Real Estate of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a “Lot” as defined herein. The Class C membership shall cease and terminate as of the Brookhaven Applicable Date. Upon termination of the Class C membership, Class C memberships shall be converted to Class A memberships, and each former Class C member shall be entitled to one (1) Class A membership for each Lot owned and for each individually identified parcel of land shown upon, and identified as a “Block” on, any recorded subdivision plat of the Real Estate of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a “Lot” as defined herein.

(d) Class D. The “Class D members” shall be Fieldstone and all successors and assigns of Fieldstone as Declarant with respect to the Fieldstone Real Estate and which have been designated by Fieldstone as Class D members in a written notice mailed or delivered to the resident agent of the Corporation. Until the Fieldstone Applicable Date, the Class D members shall be entitled to three (3) Class D memberships equating to three (3) votes on every matter submitted to the Corporation for every Lot owned by such Class D member and for each individually identified parcel of land shown upon, and identified as a “Block” on, any recorded subdivision plat of the Real Estate of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a “Lot” as defined herein. The Class D membership shall cease and terminate as of the Fieldstone Applicable Date. Upon termination of the Class D membership, Class D memberships shall be converted to Class B memberships, and each former Class D member shall be entitled to one (1) Class B membership for each Lot owned and for each individually identified parcel of land shown upon, and identified as a “Block” on, any recorded subdivision plat of the Real Estate of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a “Lot” as defined herein.

(e) Equivalency of Class A and Class B Members. Except as provided otherwise in the Declaration, Class A members shall be (i) entitled to vote on every matter which a

Class B member is entitled to vote upon, and vice versa, and (ii) equivalent for every other purpose under the Declaration.

(f) Equivalency of Class C and Class D Members. Except as provided otherwise in the Declaration, Class C members shall be (i) entitled to vote on every matter which a Class D member is entitled to vote upon, and vice versa, and (ii) equivalent for every other purpose under the Declaration.

(g) Special. Until the Brookhaven Applicable Date, Drees, or any successor Declarant designated by Drees, may appoint three (3) additional special members of the Corporation to serve on the "Initial Board." Until the Fieldstone Applicable Date, Fieldstone, or any successor Declarant designated by Fieldstone, may appoint two (2) additional special members of the Corporation to serve on the "Initial Board." Persons who are special members shall have no rights except as set forth in Section 4.2(b) of the Declaration.

Section 2. Rights, Preferences, Limitations and Restrictions of Members. The members shall have such rights, duties, liabilities and obligations, and shall be subject to such limitations and restrictions, as are provided herein, in the By-Laws, in the Declaration and in the Act.

Section 3. Co-Owners. Where more than one person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be members of the Association, but the vote in respect of such Lot shall be exercised as the persons or entities holding an interest in such Lot determine among themselves. In the absence of such a determination, the vote in respect of such Lot may not be cast. In no event shall more than one (1) vote be cast with respect to such Lot.

ARTICLE VII  
Directors

The number of directors of the Corporation shall be five (5).

ARTICLE VIII  
Initial Board of Directors

The names and addresses of the members of the initial Board of Directors are as follows:

Dawn Barnett  
6650 Telecom Drive, Suite 200  
Indianapolis, IN 46278-6278

Gregg MONTGOMERY  
PO Box 461  
ZIONSVILLE, IN 46077

Josh Kilcoyne  
6650 Telecom Drive, Suite 200  
Indianapolis, IN 46278-6278

THOMAS MCHAFFIE  
PO Box 3231  
CARMEL, IN 46082

Steve Masuccio  
6650 Telecom Drive, Suite 200  
Indianapolis, IN 46278-6278

ARTICLE IX  
Incorporator

The name and address of the Incorporator of the Corporation is Dawn Barnett, whose address is 6650 Telecom Drive, Suite 200, Indianapolis, IN 46278-6278.

ARTICLE X  
Regulation of Corporate Affairs

The affairs of the Corporation shall be subject to the following provisions:

Section 1. Interest of Directors or Officers in Transactions. Any contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any firm of which one or more of its directors or officers are members or employees, or in which they are interested, or between the Corporation and any other corporation or association of which one or more of its directors or officers are shareholders, members, directors, officers or employees, or in which they are interested, shall be valid for all purposes, notwithstanding the presence of such director or directors at the meeting of the Board of Directors which acts upon or in reference to such contract or transaction, and notwithstanding his or their participation in such action, if the fact of such interest shall be disclosed or known to the Board of Directors and the Board of Directors shall authorize, approve and ratify such contract or transaction by a vote sufficient for the purpose without counting the votes or consents of such interested director or directors. The interested director or directors may be counted in determining the presence of a quorum at such meeting. This Section 1 of this Article X shall not be construed to invalidate any contract or other transaction that would otherwise be valid under the common, equitable or statutory law applicable thereto.

Section 2. Meeting of Members. Meetings of the members of the Corporation shall be held at such place in Marion County, Boone County or Hamilton County, Indiana, as may be specified in the respective notices or waivers of notice thereof.

Section 3. Meetings of Directors. Meetings of the Board of Directors of the Corporation shall be held at such place in Marion County, Boone County or Hamilton County, Indiana, as may be specified in the respective notices or waivers of notice thereof. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if one or more written consents thereto are signed by each member of the Board of Directors or of such committee (as the case may be) and such written consents are filed with the minutes or proceedings of the Board or committee. Action taken by written consent shall be effective when the last director or committee member signs a consent, unless the consent specifies a prior or subsequent effective date. A consent signed as described herein shall have the effect of a meeting vote and may be described as such in any document.

Section 4. Powers Relative to By-Laws. The initial By-Laws of the Corporation shall be the By-Laws adopted by the initial Board of Directors of the Corporation. The power to alter, amend, add to and repeal the By-Laws of the Corporation is vested in the members of the

Corporation, which power shall be exercised in accordance with the requirements of the Declaration and By-Laws.

Section 5. General Powers of Directors. Subject to the provisions of these Articles of Incorporation, the By-Laws and applicable law, the Board of Directors shall have complete and plenary power to manage, control and conduct all affairs of the Corporation, which Powers shall include, without limiting the foregoing, those powers described in the Declaration and By-Laws.

Section 6. Nonliability of Members. No member or director of the Corporation shall be liable for any of the Corporation's obligations.

Section 7. Non-Liability of Directors and Officers. The directors and officers of the Association shall not be liable to the Owners or any other persons for any error or mistake of judgment in carrying out their duties and responsibilities as directors or officers of the Association, except for their own individual willful misconduct, bad faith or gross negligence.

Section 8. Right to Amend Articles. The Corporation reserves the right to amend, alter, change or repeal, in any manner now or hereafter prescribed by the Act, any provision contained in these Articles of Incorporation, and all rights, powers and privileges hereby conferred on members, directors or officers of the Corporation are subject to this reserved power.

Section 9. Dissolution. If the Corporation is dissolved, all of its property remaining after payment and discharge of its obligations shall be transferred and conveyed, subject to any contractual or legal requirement, to one or more other nonprofit organizations that have been selected by the Board of Directors and that are organized and operated for purposes substantially the same as those of the Corporation.

#### ARTICLE XI No Private Inurement


None of the Corporation's net earnings shall inure to the private benefit of any private individual.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]



The undersigned Incorporator hereby adopts these Articles of Incorporation and presents them to the Secretary of State of the State of Indiana for filing.

IN WITNESS WHEREOF, the undersigned, being the Incorporator designated in Article IX, executes these Articles of Incorporation and affirms and verifies, subject to penalties of perjury, the truth of the facts herein stated, this 22ND day of FEBRUARY, ~~2009~~ 2010.

  
\_\_\_\_\_  
Dawn Barnett, Incorporator

**Exhibit A**

**LEGAL DESCRIPTION**

Common Area "B" for Brookhaven, Section 1, a subdivision in Boone County, Indiana, as per plat thereof, recorded July 17, 2006, as Instrument No. 200600007390 in the Office of the Recorder of Boone County, Indiana.