

**ARTICLES OF INCORPORATION
OF
WHISPERING OAKS PHASE II
HOMEOWNERS ASSOCIATION, INC.**

The undersigned incorporator or incorporators, desiring to form a corporation (hereinafter referred to as the "Corporation"), pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991 as amended (hereinafter referred to as the "Act"), execute the following Articles of Incorporation.

ARTICLE I

Name

The name of the Corporation is Whispering Oaks Phase II Homeowners Association, Inc.

ARTICLE II

Adoption

These Articles of Incorporation creating Whispering Oaks Phase II Homeowners Association, Inc., and the Code of By-Laws corresponding thereto, are adopted simultaneously with the execution of a certain Covenants and Restrictions with Design Guidelines (hereinafter "Covenants"). The Covenants are recorded in the Office of the Recorder of Clark County, as Instrument No. 203/12377, under date of Sept 13, 2004, and are incorporated herein by reference and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these Articles and the Code of By-Laws. The definition and terms, as defined and used in the Covenants, shall have the same meaning in these Articles and the Code of By-Laws.

ARTICLE III

Purposes and Powers

Section 1. Type of Corporation. This is a public benefit corporation.

Section 2. Purpose and Powers. The purpose of the Corporation shall be to provide for the maintenance, repair, replacement, administration, operation, preservation, architectural control, and ownership of the Common Area Whispering Oaks Phase II Subdivision, recorded as Instrument No. 205422373, in the office of the Recorder of Clark County, Indiana, and of such other areas that may come within its jurisdiction and authority, and to promote the health, safety and welfare of the occupants of such Subdivision, and to perform such other functions as may be designated to it and to:

(a) Exercise all of the powers and privileges and perform all of the duties and obligations of the Corporation as set forth in the Covenants, as the same may be amended from time to time and the Code of By-Laws.

(b) Establish, levy, collect and enforce payment by any lawful means, any charges or assessments made against members or others pursuant to the terms of the Covenants; to pay all expenses in connection with such collection and all office and other expenses incident to the conduct of the business of the Corporation, including any license fees, taxes or other governmental charges levied or imposed against the property of the Corporation.

(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 Corporation in accordance with the provisions of the Covenants.

(d) Borrow money, and with the consent of two-thirds (2/3) of the Members, pledge, deed in trust, or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred.

(e) If required, exercise the jurisdiction and authority over, and the ownership of, the Common Area.

(f) Have and exercise any and all powers, rights, duties and privileges which are given the Corporation in the Covenants.

(g) Have and exercise any and all powers, rights and privileges which a corporation organized under the

Nonprofit Corporation Act of the State of Indiana by law may now or hereafter have or exercise.

ARTICLE IV

Period of Existence

The period of during which the Corporation shall continue is perpetual.

ARTICLE V

Resident Agent and Principal Office

Section 1. Resident Agent. The name and address of the Resident Agent in charge of the Corporation's principal office is Greg Furnish, 3027 Wolfe Lake Drive, New Albany, IN 47150.

Section 2. Principal Office. The address of the principal office of the Corporation is 3027 Wolfe Lake Drive, New Albany, IN 47150.

ARTICLE VI

Membership

Section 1. Classes. The classes of Members are as follows:

Class "A" Members. Every person or entity who is an Owner in accordance with the definition of Owner in the Covenants shall be a Member of the Corporation.

Class "B" Members. The Declarant and its assigns shall be the Class "B" Members.

Section 2. Rights, Preferences, Limitations and Restrictions of Classes. All Members shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members. All Members shall abide by the Articles of Incorporation, the Code of By-Laws, the rules and regulations adopted by the Board of Directors and all covenants, restrictions and other provisions contained in the Covenants.

Section 3. Voting Rights of Classes. All Members shall have the voting rights as established in the Covenants.

ARTICLE VII

Directors

Section 1. Number of Directors. The initial Board of Directors shall be composed of four (4) members. The number of Directors of the Corporation shall be fixed by the Code of By-Laws of the Corporation, but in no event shall the Code of By-Laws fix the number of Directors at less than four (4) nor more than ten (10).

Section 2. Names and Post Office Addresses of the Directors. The names and post office addresses of the initial Board of Directors are:

Terry Powell
3027 Wolfe Lake Drive
New Albany, IN 47150

Jane Powell
3027 Wolfe Lake Drive
New Albany, IN 47150

Greg Furnish
~~512 Haddon Road~~
Henryville, IN 47126

Michelle Furnish
12910 Covered Bridge Drive
Sellersburg, IN 47172

← Same →

ARTICLE VIII

Incorporators

Section 1. Names and Post Office Addresses. The names and post office address of the incorporators of the Corporation are as follows:

Terry Powell
3027 Wolfe Lake Drive
New Albany, IN 47150

Jane Powell
3027 Wolfe Lake Drive
New Albany, IN 47150

Greg Furnish
~~512 Haddon Road~~ 12910 Covered Bridge
Henryville, IN 47126 ~~Henryville, IN 47126~~ Sellersburg, IN

Michelle Furnish
12910 Covered Bridge Drive
Sellersburg, IN 47172

ARTICLE IX

Statement of Property and Estimate of the Value Thereof

Section 1. Property. At the time of the incorporation, certain property designated as Common Area on the plat, recorded as Instrument No. 280912373, in the office of the Recorder of Clark County, Indiana, will be conveyed to the Corporation, the value of which is approximately \$50,000.00.

ARTICLE X

Provisions for the Regulations and Conduct of the Affairs of the Corporation

Section 1. Liability of Members. Neither the individual Members of the Corporation nor their individual property shall be subject to any liability for any debts of the Corporation.

Section 2. Code of By-Laws. The power to make, alter, amend or repeal the Code of By-Laws and the rules and regulations for the conduct of the affairs of the Corporation, including the power to elect officers of the Corporation, shall be vested in the Board of Directors of the Corporation; provided, however, that no acts of the Board of Directors shall be inconsistent with or contradictory to these Articles of Incorporation, the Covenants, or any provision of law.

Section 3. Dissolution. The Corporation may be dissolved only with the written consent of not less than two-thirds (2/3) of the Members.

Section 4. Amendment of Articles of Incorporation. Amendment to the Articles of Incorporation shall require the consent of at least two-thirds (2/3) of the Members.

Section 5. No Private Benefit. No money or property received or held by the Corporation shall ever inure, directly or indirectly, to the private benefit of any Member, Director, or officer of the Corporation or any other person whomsoever, except for reasonable compensation for services actually rendered to the corporation.

Section 6. Distributing of Earnings and Assets. On dissolution of this Corporation, any assets remaining after

payment of its debts and obligations shall be transferred or distributed to the agency or corporation who shall take over the functions of the Corporation or shall be used to improve or add to the Common Area prior to such dissolution. No assets of the Corporation shall be distributed upon dissolution or otherwise to any incorporator, member, donor, officer or employee.

Section 7. Non-Liability of Directors. The Directors shall not be liable to the Members or the Corporation for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless each of the Directors against any and all liability to any person, firm or Corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith or contrary to the provisions of the Articles of Incorporation or Code of By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation and that in all matters the Board is acting for and on behalf of the Corporation and as its agent. Every contract made by the Board or the Managing Agent on behalf of the Corporation shall provide that the Board of Directors and the Managing Agent, as the case may be, are acting as agent for the Corporation and shall have no personal liability thereunder.

Section 8. Additional Indemnity of Directors. The Corporation shall indemnify any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was Director, officer or employee of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the committee composed of the Directors not involved in the matter in controversy (whether or not a quorum) in their judgment reasonably exercised that such Director, officer or employee was not guilty of gross negligence or misconduct. In make such findings and notwithstanding the adjudication in any action,

suit or proceeding against a Director, officer or employee, no Director, officer or employee shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director, officer or employee relied on the books and records of the Corporation, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

The rights of indemnification and reimbursement set forth above shall not be deemed exclusive of any other rights to which such officers, Directors or employees may be entitled apart from the provisions of this Article.

Section 9. Reliance by Directors on Books of Account Etc. Each Director of the Corporation shall be fully protected in relying in good faith upon (a) the books of account of the Corporation, or (b) statements prepared by any of its officers and employees as to the value and amount of the assets, liabilities and net profits of the Corporation, or any of such items, or (c) statements or advice made by or prepared by any officer or employee of the Corporation or any accountant, attorney, other person or firm, employed by the Corporation to render advice or service.

The undersigned, being one or more persons, do hereby adopt these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all person whom it may concern that a membership list or lists of the above-named Corporation for which a Certificate of Incorporation is hereby applied for, have heretofore been opened in accordance with law and that at least three (3) persons have signed such membership list.

Section 10. Covenant Controls. In the event of any conflict between the provisions of these Articles and the Covenants, the provisions of the Covenants shall govern.

IN WITNESS WHEREOF, we, the undersigned, do hereby execute these Articles of Incorporation and certify to the truth of the facts herein state, this ____ day of _____, 2004.

Terry Powell
Terry Powell

Jane Powell
Jane Powell

Greg Furnish
Greg Furnish

Michelle Furnish
Michelle Furnish

STATE OF INDIANA

COUNTY OF FLOYD

I, the undersigned, a Notary Public duly commissioned to take acknowledgments and administer oaths in the State of Indiana, certify that Terry Powell, being one of the incorporators referred to in Article VIII of the foregoing Articles of Incorporation, personally appeared before me, acknowledged the execution thereof, and swore to the truth of the facts therein stated.

WITNESS my hand and notarial seal this 20th day of January, 2004.

Sharon E Jones
Sharon E Jones
Notary Public
Resident of Floyd County, Indiana

Printed Signature:
Sharon E Jones

My Commission expires:
August 25, 2012

STATE OF INDIANA

COUNTY OF FLOYD

I, the undersigned, a Notary Public duly commissioned to take acknowledgments and administer oaths in the State of Indiana, certify that Jane Powell, being one of the incorporators referred to in Article VIII of the foregoing Articles of Incorporation, personally appeared before me, acknowledged the execution thereof, and swore to the truth of the facts therein stated.

WITNESS my hand and notarial seal this 28th day of January, 2004

Sharon E Jones
Notary Public
Resident of Floyd County, Indiana

Printed Signature:
Sharon E Jones

My Commission expires:
August 25, 2012

STATE OF INDIANA

COUNTY OF FLOYD

I, the undersigned, a Notary Public duly commissioned to take acknowledgments and administer oaths in the State of Indiana, certify that Greg Furnish, being one of the incorporators referred to in Article VIII of the foregoing Articles of Incorporation, personally appeared before me, acknowledged the execution thereof, and swore to the truth of the facts therein stated.

WITNESS my hand and notarial seal this 28th day of January, 2004

Sharon E Jones
Notary Public
Resident of Floyd County, Indiana

Printed Signature:
Sharon E Jones

My Commission expires:
August 25, 2012

STATE OF INDIANA

COUNTY OF FLOYD

I, the undersigned, a Notary Public duly commissioned to take acknowledgments and administer oaths in the State of Indiana, certify that Michelle Furnish, being one of the incorporators referred to in Article VIII of the foregoing Articles of Incorporation, personally appeared before me, acknowledged the execution thereof, and swore to the truth of the facts therein stated.

WITNESS my hand and notarial seal this 20th day of January, 2004⁵

Sharon E. Jones
Notary Public
Resident of Floyd County, Indiana
Printed Signature: Sharon E. Jones

My Commission expires:
August 25, 2012

This instrument prepared by:

Charles R. Murphy
3707 Charlestown Road, Suite D
New Albany, IN 47150
(812) 944-0515

Eb67:whispering.art