

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF INCORPORATION

OF

BROOKSIDE LAKES OWNERS ASSOCIATION, INC.

I, SUE ANNE GILROY, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above corporation have been presented to me at my office accompanied by the fees prescribed by law; that I have found such Articles conform to law; all as prescribed by the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended.

NOW, THEREFORE, I hereby issue to such corporation this Certificate of Incorporation, and further certify that its corporate existence will begin August 23, 1999.

In Witness Whereof, I have hereunto set my
hand and affixed the seal of the State of
Indiana, at the City of Indianapolis, this
Twenty-third day of August, 1999.



Deputy

1999081574

ARTICLES OF INCORPORATION

OF

APPROVED
AND
FILED
IND. SECRETARY OF STATE

BROOKSIDE LAKES OWNERS ASSOCIATION, INC.

The undersigned incorporator, desiring to form a corporation (the "Corporation") under the provisions of The Indiana Nonprofit Corporation Act of 1991 (the "Act"), as amended, executes the following Articles of Incorporation (the "Articles").

RECEIVED
CORPORATIONS DIV.
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SUSANNE GILROY

ARTICLE 1

Name

The name of this Corporation shall be BROOKSIDE LAKES OWNERS ASSOCIATION, INC.

ARTICLE 2

Definitions

Section 2.01. *Terms.* The following terms, as used in these Articles, unless the context clearly requires otherwise, shall mean the following:

- (a) "Act" means the Indiana Nonprofit Corporation Act of 1991, as amended from time to time.
- (b) "Applicable Date" means the earliest of (a) five (5) years from the date of the sale of the first Condominium Unit by Declarant; or (b) four (4) months after seventy-five percent (75%) of the Condominium Units that may be developed on the Real Estate have been conveyed to purchasers, or (c) the date Declarant files of record in the Office of the Recorder of Allen County, Indiana, an instrument waiving and releasing its reserved rights as set forth in Paragraph 16 of this Declaration, to expand or further expand Brookside Lakes.
- (c) "Articles" means these Articles of Incorporation of the Corporation, as amended from time to time.

- (d) "Assessment" means all sums lawfully assessed against the Members by the Corporation or as declared or authorized by the Indiana Horizontal Property Law, the declaration, any supplemental Declaration, the Articles or the By-Laws.
- (e) "Board of Directors" means the governing body of the Corporation elected by the Members, or by the Declarant acting on behalf of the members, in accordance with the By-Laws.
- (f) "By-Laws" means the Code of By-Laws of the Corporation and of Brookside Lakes Horizontal Property Regime attached to and incorporated in the Declaration and recorded, or to be recorded, in the office of the Recorder of Allen County, Indiana.
- (g) "Condominium Act" means the Horizontal Property Law of the State of Indiana (I.C.32-1-6-1, et. Seq.), as amended from time to time.
- (h) "Condominium Unit" means a living unit described in the Declaration or a Supplemental Declaration.
- (i) "Corporation" means Brookside Lakes Owners Association, Inc., an Indiana nonprofit corporation.
- (j) "Brookside Lakes" means the name by which the Horizontal Property Regime created by the Declaration is known.
- (k) "Declaration" means the Declaration of Condominium Ownership of Brookside Lakes recorded or to be recorded, in the office of the Recorder of Allen County, Indiana, as the same may be amended from time to time.
- (l) "Development Area" means the real estate described in Exhibit A to the Declaration.
- (m) "Declarant" or "Developer" means CJB Brookside, L.L.C., an Indiana limited liability company, the owner of the Tract at the time of the recording of this Declaration, its successors and assigns to its interest therein (as the Tract) may be expanded pursuant to the terms of the Declaration), other than Owners acquiring Condominium Units by deed from the Declarant (unless the conveyance indicated an intent that the grantee assume the rights and obligations of the Declarant).
- (n) "Member" means a Class A or Class B member of the Corporation and "Members" means Class A and Class B members of the Corporation.
- (o) "Owner" means a Person, including the Declarant, who at the time has or is acquiring any interest in a Condominium Unit, except a Person who has or is acquiring such an interest as security for the performance of an obligation.

- (p) "Person" means an individual, firm, corporation, partnership, limited liability company, association, joint venture, trust or other legal entity, or any combination thereof.
- (q) "Property" means the Tract, the Condominium Units, the Common Areas, the Limited Common Areas, and property of every kind and nature whatsoever, real or personal, located upon the Common Areas or used or held for use in connection with the business or operation of the Corporation.
- (r) "Supplemental Declaration" means any supplement to or amendment of the Declaration that may be recorded and which extends the provisions of the Declaration to a portion of the Development area not originally included in the Tract and contains such complementary provisions for such portions as are required or permitted by the Declaration.
- (s) "Tract" means the real estate in Fort Wayne, Allen County, Indiana, described in Exhibit B to the Declaration, and such other real estate as many from time to time be subject to the Declaration.

Section 2.02. **Other Terms.** Any undefined term used herein shall, unless the context requires otherwise, have the meaning set forth in Paragraph 1 of the Declaration.

ARTICLE 3

Type, Purpose and Powers

Section 3.01. **Type.** The Corporation shall be a mutual benefit corporation.

Section 3.02. **Primary Purposes.** The purpose for which this Corporation is formed are to manage, maintain, preserve, repair and reconstruct the Common Areas and the Limited Common Areas at Brookside Lakes and to exercise all of the power and privileges and to perform all of the duties and obligations of the Corporation as set forth in the Declaration of Condominium Ownership of Brookside Lakes, any supplemental Declaration (collectively, the "Declaration"), and Code of By-Laws of Brookside Lakes Owners Association, Inc. (the "By-Laws"), as recorded in the Office of the Recorder of Allen County, Indiana.

Section 3.03 **Additional Purposes.** In addition, the Corporation is formed for the promotion of the health, safety and welfare of the residents of Brookside Lakes and other non-profitable purposes that are authorized by the Act and permitted to be carried on by an organization exempt from Federal income taxation under the provisions of Section 528 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Regulations issued pursuant thereto, as amended.

Section 3.04. ***Specific Powers.*** Subject to any specific written limitations or restrictions imposed by the Act, by the Code, by the law, or by the Declaration, any Supplemental Declaration, the Articles or the By-Laws, and solely in furtherance of but not in addition to the purposes set forth in Sections 3.02 and 3.03 of these Articles, the Corporation shall have the following specific powers:

(a) **Management.** To manage, maintain, repair and replace the Common Areas, the Limited Common Areas and the property owned by the Corporation for the benefit and use of the members of the Corporation subject to the provisions of the Declaration and the By-Laws.

(b) **Assessments and Dues.** To fix, levy and collect Assessments and Dues, and to enforce payment thereof by all lawful means.

(c) **Promulgate Rules.** To promulgate such rules and regulations and perform such deeds as are deemed necessary to achieve the aforesaid purposes.

(d) **Secure Insurance.** To secure from insurers licensed and approved in the State of Indiana appropriate fire-property damage coverages, comprehensive general liability coverage and such other forms of insurance as may be deemed necessary or appropriate.

(e) **Secure Services.** To secure professional managerial services by employing a professional manager, contracting with a professional management service or entity, or otherwise, which services may include administrative, managerial, bookkeeping, legal, architectural, engineering, maintenance, repair, construction and other services.

(f) **Acquire and Dispose of Property.** To acquire by gift, purchase or other means, to own, hold, enjoy, lease, operate, maintain, convey, sell, transfer, mortgage or otherwise encumber or dedicate for public use, real or personal property in connection with the business of the Corporation subject to the provisions of the Declaration.

(g) **Borrow.** To borrow money and, subject to the provisions of the Declaration to give, as security therefor, a mortgage or other security interest in any or all real or personal property owned by the Corporation, or a pledge of monies to be received pursuant to the provisions of the Declaration or any Supplemental Declaration, and to assign and pledge its rights to make Assessments and its rights to claim a lien therefor.

(h) **Appointment of a Fiscal Agent.** To appoint any Person as its fiscal agent to collect all Assessments and charges levied by the Corporation and to enforce the Corporation's liens for unpaid Assessments and charges or any other lien held by the Corporation.

(i) **Make Contracts.** To enter into, perform, cancel and rescind all kinds of contractual obligations, including the guarantee of the obligations and performance of others.

(j) **Act With Others.** To perform any act which the Corporation acting alone has the power and capacity to perform by acting as a partner or otherwise in association with any Person or Persons, whether legally constituted or informally organized.

(k) **Pay.** To pay all Common Expenses, including all licenses, taxes or governmental charges levied or imposed against Property owned by the Corporation.

(l) **Merge.** To participate in mergers and consolidations with other nonprofit corporations organized for the same purpose or annex additional real estate as provided in the Declaration.

(m) **Act According to Law, Declaration and By-Laws.** To exercise all the rights, privileges, powers and authority, and to perform all the duties and obligations, of the Corporation specified in the Condominium Act, the Declaration, any Supplemental Declaration and the By-Laws, as the same may be supplemental or amended from time to time as therein provided.

(n) **Maintain Actions.** To sue and be sued, complain, and defend legal actions in the Corporation's corporate name.

(o) **Elections and Appointments.** To elect directors, appoint officers and agents of the Corporation, define duties and fix the compensation of directors, officers, employees, and agents.

(p) **Termination.** To close activities of the Corporation, and dissolve and surrender the Corporation's corporate franchise.

(q) **Miscellaneous Powers.** To have and to exercise any and all powers, rights, and privileges which a corporation organized under the Act may now or subsequently have or exercise.

Section 3.05. *Limitations Upon Powers.*

- (a) **Earnings.** No Member of the Corporation shall have or receive any earnings from the Corporation except a member who is an employee of the Corporation, in which event he or she may receive fair and reasonable compensation for his or her services as an employee; and a member may be also receive payments of principal and interest at a rate not exceeding that time to time permitted by the Act on funds loaned or advanced by him to the Corporation.

- (b) **Loans to Directors.** The Corporation shall make no advancements for services to be performed in the future, nor any loan of money or property to any Director or Officer of the Corporation.
- (c) **Dissolution.** In the event of dissolution of the Corporation, all assets remaining after payment of all debts of the Corporation, including advances and loans of Members of the Corporation, and, if so authorized by the Board of Directors, distribution to Members of the Corporation of such amounts as may be authorized by the Act, shall be dedicated by the Board of Directors to an appropriate public agency to be used for purposes similar to those for which this Corporation was organized. In the event such dedication is refused acceptance, such assets shall be transferred by the Board of Directors to the State of Indiana or any instrumentality or subdivision thereof exclusively for public purposes, or to any nonprofit corporation whose purposes substantially the same as those of the Corporation and which, at the time of transfer, is exempt from Federal taxation under Sections 501(c)(3), 501(C)(4) OR 528 of the Code or the corresponding provisions of any future United States internal revenue law. Any such assets not so dedicated or transferred by the Board of directors shall be disposed of in accordance with the Act. No member, director or officer of the Corporation, or any private individual, shall be entitled to share in the distribution of any of the assets of the Corporation on dissolution of the Corporation, except as otherwise provided in these Articles or in the Act.

(d) **Prohibited Activities.**

- (i) No part of the net earnings of the Corporation shall inure to the benefit of any member, director or officer of the Corporation, or to any private individual, other than by acquiring, constructing or providing management, maintenance and care of "association property" and other than by rebate of excess membership dues, fees, charges and assessments which constitute "exempt function income" for purposes of Section 528 of the Code;
- (ii) No substantial part of the activities of the Corporation shall be devoted to attempting to influence legislation by propaganda or otherwise within the meaning of the prescriptive provisions of the Code;
- (iii) The Corporation shall not directly or indirectly participate in, or intervene in (including the publishing and distributing of statements) any political campaign on behalf of, or in opposition to, any candidate for public office;
- (iv) Notwithstanding any other provision of these Articles, the Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by any organization exempt from Federal taxation under Section 528 of the Code and the Regulations issued pursuant thereto, as amended, or the corresponding provisions of any future United States internal revenue law,

if the effect thereof is to mandatorily subject the gross income of the Corporation to Federal income taxation at rates established for corporations engaged in business for profit unless the purposes of the Corporation set forth in Section 2.02 of these Articles cannot otherwise be achieved.

Section 3.06. Construction of Purposes and Powers.

It is intended, by the provisions of the Articles, that the Corporation shall be an organization exempt from federal income taxation under the provisions of IRC, Section 528, and the Articles shall be construed so as to effect such intention.

ARTICLE 4

Period of Existence

Section 4.01. *Term.* The term during which the Corporation shall continue is perpetual.

ARTICLE 5

Registered Office and Registered Agent

Section 5.01. *Registered Office.* The street address of the registered office is 3417 West Bethel Avenue, Suite E, Muncie, Indiana 47394.

Section 5.02. *Registered Agent.* The name and street address of the Registered Agent of the Corporation for service of process is as follows:

NAME	STREET ADDRESS
Charles J. Burnworth, Managing Member	CJB Brookside, L.L.C. 3417 West Bethel Avenue, Suite E Muncie, Indiana 47304

ARTICLE 6

Membership

Section 6.01. *Class of Membership.* The Corporation shall have three (3) classes of members as follows:

- (a) **Class A.** Every Person who is an Owner shall be a Class A member of the Corporation. Class A membership shall be appurtenant to and may not be separated from the Ownership of a Condominium Unit.
- (b) **Class B.** The members of the Initial Board of Directors and such additional persons as may be appointed by the Declarant to the Board of Directors pursuant to Section 9.04 shall be Class B members. Class B members shall not be deemed or considered Members nor Owners for any purpose other than to qualify as members of the Board of Directors and to serve as members of the Initial Board.
- (c) **Associate.** Individuals who are appointed by Class A members pursuant to the provisions of Section 5.02 shall be Associate Members.

Section 6.02 *Associate Membership.* Each member which is not a natural person may appoint one (1) Associate Member by filing a written appointment with the Secretary of the Corporation. Upon the death, resignation or expulsion of any such Associate Member, the Member who made the appointment may appoint a successor by filing a written appointment with the Secretary pursuant to this Section 5.02.

Section 6.03. *Voting Rights.*

- (a) **Class A Members.** Each condominium Unit shall have appurtenant thereto One (1) vote which may be cast by the Owners thereof who are present in person or by proxy. Pursuant to the voting procedures established in the By-Laws except that until the Applicable Date, each Owner shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which appointment shall be deemed coupled with an interest and irrevocable, until the Application Date to exercise said Owner's right to vote as Declarant determines on all matters as to which Owners are entitled to vote under the Declaration, the By-Laws, the Condominium Act, the Act or otherwise, and such appointment shall not be affected by incompetence of the Owner granting the same.
- (b) **Class B Members.** Class B members shall not be entitled to vote except to the extent they hold the proxy of a Class A member.
- (c) **Associate Members.** Associate Members shall not be entitled to vote except the extent they hold the proxy of a Class A member.
- (d) **Casting of Votes.** Members who are not natural Persons shall be designate by written notice to the Secretary of the Corporation the name of an individual who is authorized to exercise the right of such Member to vote. The name of such individual shall be kept on the records of the Corporation and may be changed only by written notice to the Secretary of the Corporation.

Section 6.04. ***Termination of Membership.***

- (a) **Class A Members.** Membership in the Corporation shall lapse and terminate when a Class A member ceases to be an Owner.
- (b) **Class B Members.** Membership in the Corporation shall lapse and terminate when a Class B member is no longer a member of the Initial Board or on the Applicable Date, whichever first occurs. Class B membership shall cease to be a membership category on the Applicable Date.

Section 6.05. ***Suspension of Membership Rights.*** No Class A member may be expelled from membership in the Corporation for any reason, or have his or her rights suspended or impaired except to the extent authorized by the Declaration or the By-Laws, but an Associate Member may be expelled without cause by a majority vote of the members of the Board of Directors present and voting at a meeting called for such purpose or by appointing Member, and a Class B member may be expelled by the Declarant.

Section 6.06. ***Meeting of Members.*** All meetings of the Initial Board until the Applicable Date shall be held either at the Declarant's offices or in such place within the city of Fort Wayne, Allen County, Indiana, or as may be designated by the Initial Board pursuant to the provisions of the By-Laws. After the Applicable Date, meetings of the Members shall be held at such place within the City of Muncie or may be designated by the Board of directors pursuant to the provisions of the By-Laws. Notice of meetings need not be given to Associate Members if notice thereof is given to the Members appointing such Associate Members.

Section 6.07. ***No Other Preferences, Etc.*** There shall be no other preferences, limitations, or restrictions with respect to the relative rights of the Members.

ARTICLE 7

Directors

Section 7.01. ***Number of Directors.*** The initial Board of Directors of the Corporation shall consist of three (3) members. The number of directors of the Corporation shall be specified from time to time in the By-Laws, but the minimum numbers shall be three (3) and the maximum number shall be five (5) and, if the By-Laws fail to specify the number, then the number shall be three (3).

Section 7.02. ***Names and Post Office Addresses.*** The names and street addresses of the initial members of the Board of Directors are as follows:

NAME	STREET ADDRESS
Charles J. Burnworth	4109 West Oran Court Muncie, Indiana 47304
Chad J. McCool	136 Green Street Tipton, Indiana 46072
Eryn P. Massey	2707 North Everbrook Lane Muncie, Indiana 47304

ARTICLE 8

Incorporator

Section 8.01. *Name and Address of Incorporator.* The name and street address of the Incorporator is as follows:

NAME	STREET ADDRESS
Charles J. Burnworth	4109 West Oran Court Muncie, Indiana 47304

ARTICLE 9

Statement with Respect to Property

Section 9.01. *Property of Corporation.* The Corporation, upon its incorporation, has no property of value.

ARTICLE 10

Provision For Regulation And Conduct Of The Affairs of Corporation

Section 10.01. *Management of Corporation.* The affairs of the Corporation shall be Managed by the Board of Directors subject to the terms and conditions of the Declaration.

Section 10.02. *Code of By-Laws.* The By-Laws may be altered, amended or repealed only In the manner specified in Article XI thereof.

Section 10.03. **Officers.** The officers of the Corporation shall consist of a President, a Vice President, a Secretary, an Assistant Secretary, a Treasurer, and such other officers as may be prescribed by the By-Laws or prescribed by resolution of the Directors in the manner specified in the By-Laws. The Board offices of President and Secretary shall not be occupied by the same person.

Section 10.04. **Initial Board.** The initial Board of Directors named in Section 6.02 hereof shall serve as the Board of directors of the Corporation until the Applicable Date and, in the event of any vacancy or vacancies occurring in the Initial Board of any reason or cause whatsoever prior to the Application date, every such vacancy shall be filled by an individual appointed by Declarant. Any such individual appointed by Declarant shall thereafter be deemed a member of the Initial Board.

Section 10.05. **Term of Office of Directors and Officers.** Each officer and director shall hold office for the term specified in the By-Laws, but no term shall end until a successor is elected and qualified for the office to be vacated.

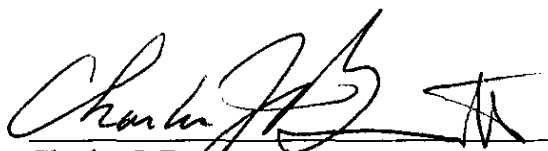
Section 10.06. **Removal of Member of the Board of Directors.** After the Applicable date, any member of the Board of Directors may be removed, with or without cause, at a meeting of the Members called for such purpose by the affirmative vote of a majority of all votes allocated to Class A members.

Section 10.07. **Amendment of Articles of Incorporation.** The Corporation reserves the right to amend, alter, change or repeal any provisions contained in the Articles or in any amendment hereto, in any manner now or hereafter prescribed or permitted by the Act or any amendment thereto; but such power of amendment does not authorize any amendment that would permit any part of the net earnings of the Corporation to inure to the benefit of any private individual, that would modify the provisions of Section 2.05 if such modification would have the effect of disqualifying this Corporation as an organization exempt from Federal income taxation under the provisions of Section 528 of the Code, as amended, or such equivalent provision as may hereafter exist from time to time, or that would be in conflict with the provisions of the Indiana Horizontal Property Law; provided, however, that prior to the Applicable Date, no amendment, alteration, changes or repeal of these Articles may be made without the consent and approval of Declarant.

The undersigned, being the sole Incorporator designated in Article 8, does hereby adopt these Articles of Incorporation, representing by his execution hereof to the Secretary of State of Indiana and all persons whom it may concern that a membership list of the Corporation for which a Certificate of Incorporation is hereby applied for has heretofore been opened in accordance with the Act and that at least three (3) persons have signed such membership list.

IN WITNESS WHEREOF, the undersigned executes these Articles of Incorporation and

verifies subject to penalties of perjury that the facts contained herein are true this 16 day of August, 1999.


Charles J. Buttrworth

This document prepared by and should be returned to:

Ms. Eryn P. Massey
Director of Condominium Operations
CJB Enterprises, Inc. Agent for
CJB Brookside, LLC
3417 West Bethel Avenue, Suite "E"
Muncie, IN 47304
(765) 286-4444