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# HIRSCHLER FLEISCHER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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October 12, 2005

**FEDERAL EXPRESS**

Florida Department of State  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, Florida 32399

Re: Zephyr Hills Company, Inc. dba  
Zephyr Hills Oak View Company, Inc.  
Document No. F98000000045

Dear Sir or Madam:

Enclosed for filing is an application to amend the Application for Authorization to Transact Business in Florida for the referenced corporation, and a check in the amount of \$43.75 in payment of the required filing fee and certified copywork fee. The amendment is filed to reflect that the corporation has changed its name. Please prepare a Certificate of Status and forward that and the evidence of the filing to my attention when available.

If you have any questions, please call me.

Sincerely,

Rebecca S. Heath  
Paralegal

Enclosures

## COVER LETTER

**TO:** Amendment Section  
Division of Corporations

**SUBJECT:** Zephyr Hills Company, Inc.  
(Name of Corporation)

**DOCUMENT NUMBER:** F98000000045

The enclosed Amendment and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Rebecca S. Heath  
(Name of Contact Person)

Hirschler Fleischer  
(Firm/Company)

P.O. Box 500  
(Address)

Richmond, Virginia 23218-0500  
(City/State and Zip Code)

For further information concerning this matter, please call:

Rebecca S. Heath at ( 804 ) 771-5618  
(Name of Contact Person) (Area Code & Daytime Telephone Number)

Enclosed is a check for the following amount:

☐ \$35.00 Filing Fee

☒ \$43.75 Filing Fee &  
Certificate of Status

☐ \$43.75 Filing Fee &  
Certified Copy  
(Additional copy is  
enclosed)

☐ \$52.50 Filing Fee,  
Certificate of Status &  
Certified Copy  
(Additional copy is  
enclosed)

**Mailing Address:**  
Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

**Street Address:**  
Amendment Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**PROFIT CORPORATION**  
**APPLICATION BY FOREIGN PROFIT CORPORATION TO FILE AMENDMENT TO**  
**APPLICATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA**  
(Pursuant to s. 607.1504, F.S.)

**SECTION I**  
**(1-3 MUST BE COMPLETED)**

F98000000045

(Document number of corporation (if known))

1. Zephyr Hills Company, Inc.

(Name of corporation as it appears on the records of the Department of State)

2. Virginia

(Incorporated under laws of)

3. 01/05/98

(Date authorized to do business in Florida)

**SECTION II**  
**(4-7 COMPLETE ONLY THE APPLICABLE CHANGES)**

4. If the amendment changes the name of the corporation, when was the change effected under the laws of its jurisdiction of incorporation? June 29, 2005

5. Schooler Zephyr Hills Company, Inc.

(Name of corporation after the amendment, adding suffix "corporation," "company," or "incorporated," or appropriate abbreviation, if not contained in new name of the corporation)

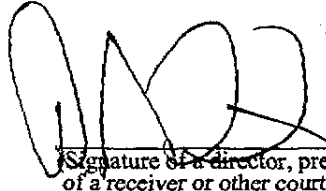
(If new name is unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

6. If the amendment changes the period of duration, indicate new period of duration.

\_\_\_\_\_  
(New duration)

7. If the amendment changes the jurisdiction of incorporation, indicate new jurisdiction.

\_\_\_\_\_  
(New jurisdiction)

  
\_\_\_\_\_  
(Signature of a director, president or other officer - if in the hands of a receiver or other court appointed fiduciary, by that fiduciary)

W. Malone Schooler

(Typed or printed name of person signing)

President

(Title of person signing)

STATE OF: Virginia  
CO OF: Stafford

On this 7<sup>th</sup> day of October, 2005, W. Malone Schooler personally appear  
before me, David M. Malone, a Notary Public in and for the State of Virginia, and acknowledged to me that he executed the foregoing instrument as his free and voluntary act and deed.



SCC710N  
(09/03)

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

ARTICLES OF AMENDMENT

CHANGING THE NAME OF A VIRGINIA STOCK CORPORATION  
By Unanimous Consent of the Shareholders

The undersigned, pursuant to § 13.1-710 of the Code of Virginia, executes these articles and states as follows:

1. The current name of the corporation is Zephyr Hills Company, Inc.
2. The name of the corporation is changed to Schooler Zephyr Hills Company, Inc.
3. The foregoing amendment was adopted by unanimous consent of the shareholders on 5/1/2005  
(date)

Executed in the name of the corporation by:

Ann A. Bowman  
(signature)

Ann A. Bowman  
(printed name)

540-373-6000  
(telephone number)

5/24/05  
(date)

Secretary  
(signature)

0494919-4  
(corporation's SCC number)

(The execution must be by the chairman or any vice-chairman of the board of directors, the president, or any other of its officers authorized to act on behalf of the corporation.)

See instructions on the reverse.

**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

AT RICHMOND, JUNE 29, 2005

The State Corporation Commission has found the accompanying articles submitted on behalf of

Schooler Zephyr Hills Company, Inc. (formerly ZEPHYR HILLS  
COMPANY, INC. )

to comply with the requirements of law, and confirms payment of all required fees. Therefore, it  
is ORDERED that this

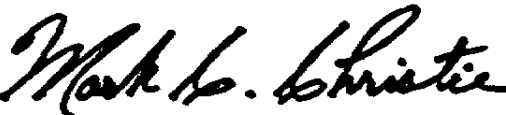
**CERTIFICATE OF AMENDMENT**

be issued and admitted to record with the articles of amendment in the Office of the Clerk of the  
Commission, effective June 29, 2005.

The corporation is granted the authority conferred on it by law in accordance with the articles,  
subject to the conditions and restrictions imposed by law.

STATE CORPORATION COMMISSION

By

A handwritten signature in black ink, reading "Mark L. Christie". The signature is written in a cursive, flowing style.

Commissioner

$$= S(10, 10) + \frac{1}{2} S(10, 10) (10S^{-1})$$

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

December 31, 1997

The State Corporation Commission has found the accompanying  
articles submitted on behalf of

ZEPHYR HILLS COMPANY, INC.

to comply with the requirements of law, and confirms payment of  
all related fees.

Therefore, it is ORDERED that this

CERTIFICATE OF AMENDMENT

be issued and admitted to record with the articles of amendment in  
the Office of the Clerk of the Commission, effective December 31,  
1997 at 03:42 PM.

The corporation is granted the authority conferred on it by law in  
accordance with the articles, subject to the conditions and  
restrictions imposed by law.

STATE CORPORATION COMMISSION

By

A handwritten signature in black ink, appearing to read "T. V. Morrison". The signature is written in a cursive, flowing style.

Commissioner

AMENACPT  
CIS20436  
97-12-31-0155



**ARTICLES OF INCORPORATION  
OF  
ZEPHYR HILLS COMPANY, INC.**

The undersigned, desiring to form a stock corporation under the provisions of Chapter 9 of Title 13.1 of the Code of Virginia of 1950, as amended, hereby sets forth the following:

**A. Corporate Name.** The name of the corporation is Zephyr Hills Company, Inc., a Virginia corporation (the "Corporation").

**B. Purposes and Powers.** The Corporation's business and purpose shall consist solely of the following:

1. To acquire a general partnership interest in and act as the general partner of Zephyr Hills Limited Partnership (the "Partnership"), which is engaged solely in the ownership, operation and management of the real estate project known as Zephyr Hills Shopping Center located in Pasco County, Florida (the "Property"), pursuant to and in accordance with these Articles of Incorporation and the Limited Partnership Agreement of Zephyr Hills Limited Partnership; and

2. to engage in such other lawful activities permitted to corporations by the laws of the Commonwealth of Virginia as are incidental, necessary or appropriate to the foregoing.

**C. Limitations.** Notwithstanding any other provision of these Articles and any provision of law that otherwise so empowers the Corporation, the Corporation shall not, without the unanimous consent of the Board of Directors, do any of the following:

1. engage in any business or activity other than those set forth in Paragraph B above or cause or allow the Partnership to engage in any business or activity other than as set forth in its Limited Partnership Agreement;

2. incur any indebtedness or assume or guaranty any indebtedness of any other entity, other than the first lien mortgage indebtedness incurred in connection with the refinancing of the Property (the "Mortgage") and normal trade accounts payable in the ordinary course of business;

3. cause the Partnership to incur any indebtedness or to assume or guaranty any indebtedness of any other entity, other than the Mortgage, indebtedness permitted thereunder (including indebtedness evidenced by a \$100,000 promissory note to Barnett Bank, and normal trade accounts payable in the ordinary course of business;

4. dissolve or liquidate, in whole or in part;

5. cause or consent to the dissolution or liquidation, in whole or in part, of the Partnership;

6. consolidate or merge with or into any other entity or convey or transfer or lease its property and assets substantially as an entirety to any entity;

7. cause the Partnership to consolidate or merge with or into any other entity or to convey or transfer or lease its Property and assets substantially as an entirety to any entity;

8. with respect to the Corporation or the Partnership, institute proceedings to be adjudicated bankrupt or insolvent, or consent to the institution or bankruptcy or insolvency proceedings against it, or file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy, or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation or the Partnership or a substantial part of property of the Corporation or the Partnership, or make any assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or take corporate action in furtherance of any such action;

9. amend, alter or modify Articles B, C or D of the Articles of Incorporation of the Corporation or approve an amendment of Section XVII of the Partnership Agreement governing the Partnership; or

10. withdraw as general partner of the Partnership.

In addition to the foregoing, the Corporation shall not, without the written consent of the holder of the Mortgage so long as it is outstanding, take any action set forth in items 1 through 7 and items 9 and 10.

**D. Separateness/Operations Matters.** The Corporation shall:

1. maintain books and records and bank accounts separate from those of any other person;

2. maintain its bank accounts and all its other assets separate from those of any other person or entity;

3. hold regular Board of Director and stockholder meetings, as appropriate, to conduct the business of the Board of Director, and observe all other Board of Director formalities;

4. hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;

5. prepare separate tax returns and financial statements, or if part of a consolidated group, then it will be shown as a separate member of such group;

6. allocate and charge fairly and reasonably any common employee or overhead shared with affiliates;

7. transact all business with affiliates on an arm's-length basis and to enter into transactions with affiliates on a commercially reasonable basis;

8. conduct business in its own name, and use separate stationery, invoices and checks;

9. not commingle its assets or funds with those of any other person;

10. not assume, guarantee or pay the debts or obligations of any other person;
11. pay its own liabilities and expenses only out of its own funds;
12. pay salaries of its own employees from its own funds;
13. maintain sufficient number of employees in light of its contemplated business operations;
14. not hold out its credit as being available to satisfy the obligations of any other person or entity;
15. not acquire the obligations or securities of its affiliates or owners, including partners, members or shareholders, as appropriate;
16. not make loans to any other person or entity or to buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment grade securities);
17. not pledge its assets for the benefit of any other person or entity other than the holder of the Mortgage;
18. correct any known misunderstanding regarding its separate identity;
19. not identify itself as a division of any other person or entity; and
20. maintain adequate capital in light of its contemplated business operations.

**E. Authorized Stock.** The aggregate number of shares which the Corporation shall have authority to issue are as follows:

<u>Class and Series</u>	<u>Number of Shares</u>
Common	5,000

The holders of the Common Stock shall have unlimited voting rights and be entitled to receive the net assets of the Corporation upon dissolution. No holders of any class or series of stock shall have the preemptive right to acquire unissued shares of any class or series of stock of the Corporation.

**F. Registered Office and Registered Agent.** The address of the Corporation's initial registered office is c/o The Malone Schooler Company, 49 White Oak Road, Suite 100, Fredericksburg, Virginia 22405. The name of the county in which the initial registered office is located is the County of Stafford, Virginia. The name of the initial registered agent is W. Malone Schooler, who is a resident of the Commonwealth of Virginia, an initial director of the Corporation, and whose business office is identical with the registered office of the Corporation.

**G. Directors.** The number of directors constituting the initial Board of Directors is one (1) and set forth below are the name and address of the person who is to serve as the initial

director until the first annual meeting of the shareholders or until his successor shall be duly elected and qualify:

W. Malone Schooler  
c/o The Malone Schooler Company  
49 White Oak Road  
Suite 100  
Fredericksburg, Virginia 22405

The foregoing person who is to serve as the initial director has heretofore consented to being named as the initial director of the Corporation.

**H. Limitation on Liability.** In any proceeding brought in the right of the Corporation or by or on behalf of shareholders of the Corporation, the damages assessed against an officer or director arising out of a single transaction, occurrence, or course of conduct shall not exceed one dollar, unless the officer or director engaged in willful misconduct or a knowing violation of the criminal law or any federal or state securities law, including without limitation, any claim of unlawful insider trading or manipulation of the market for any security.

**I. Indemnification of Directors, Officers and Others.**

1. **Indemnification.** The Corporation shall indemnify an individual who is, was or is threatened to be made a party to a proceeding (including a proceeding by or in the right of the Corporation) because he is or was a director against liability incurred in the proceeding and against expenses incurred by him in connection therewith except such liabilities and expenses incurred because of his willful misconduct or knowing violation of the criminal law.

2. **Advance for Expenses.** The Corporation shall pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(a) the director furnishes the Corporation a written statement of his good faith belief that he has met the standard of conduct described in Section 1;

(b) the director furnishes the Corporation a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he did not meet the standard of conduct (which undertaking shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment); and

(c) a determination is made that the facts then known to those making the determination would not preclude indemnification under Article 10 of the Virginia Stock Corporation Act or Section 1 hereof.

3. **Determination and Authorization of Indemnification.** The Corporation shall not indemnify a director under Section 1 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in Section 1. The determination shall be made:

(a) by the Board of Directors by a majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(b) if such a quorum cannot be obtained, by majority vote of a committee duly designated by the Board of Directors (in which directors who are parties may participate in such designation), consisting solely of two or more directors not at the time parties to the proceeding;

(c) by special legal counsel:

(i) selected by the Board of Directors or its committee in the manner prescribed in subsection (a) or (b) above;

(ii) if such a quorum of the Board of Directors cannot be obtained and such a committee cannot be designated, selected by a majority vote of the full Board of Directors, in which directors who are parties may participate in such selection; or

(d) by the shareholders, but shares owned by or voted under the control of directors who are at the time parties to the proceeding may not be voted on the determination.

Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection (c) of this Section 3 to select counsel.

If a majority of the directors of the Corporation has changed after the date of the alleged conduct giving rise to a claim for indemnification, the determination that indemnification is permissible and the authorization of indemnification and evaluation as to the reasonableness of expenses in a specific case shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Board of Directors and such person.

**4. Indemnification of Officers, Employees, Agents and Others.** Each officer and employee of the Corporation shall be entitled to indemnification and advance expenses to the same extent as a director.

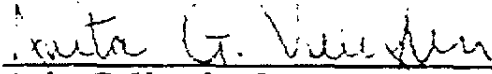
The Corporation may, to a lesser extent or to the same extent that the Corporation is required to provide indemnification and make advances for expenses to its directors, provide indemnification and make advances and reimbursements for expenses to its agents, the directors, officers, employees and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of the Corporation, and may contract in advance to do so. The determination that indemnification under this paragraph is permissible, the authorization of such indemnification and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Board of Directors, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law.

**5. Insurance.** The Corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee or agent of the Corporation, or who, while a director, officer, employee or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against liability asserted against or incurred by him in that capacity or arising from his

status as a director, officer, employee or agent, whether or not the Corporation would have power to indemnify him against the same liability under Section 1.

6. **Application.** Indemnity hereunder shall continue as to a person who has ceased to have the capacity referred to above and shall inure to the benefit of the heirs, executors and administrators of such a person.

DATED: November 12, 1997

  
Anita G. Vaughn, Incorporator

#72018 - 19406 00579

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

December 10, 1997

The State Corporation Commission has found the accompanying  
articles submitted on behalf of

ZEPHYR HILLS COMPANY, INC.

to comply with the requirements of law, and confirms payment of  
all related fees.

Therefore, it is ORDERED that this

CERTIFICATE OF INCORPORATION

be issued and admitted to record with the articles of  
incorporation in the Office of the Clerk of the Commission,  
effective December 10, 1997.

The corporation is granted the authority conferred on it by law in  
accordance with the articles, subject to the conditions and  
restrictions imposed by law.

STATE CORPORATION COMMISSION

By



Commissioner

CORPACPT  
CIS20436  
97-12-10-0106

# Commonwealth of Virginia



## State Corporation Commission

*I Certify the Following from the Records of the Commission:*

The foregoing is a true copy of all documents constituting the charter of Schooler Zephyr Hills Company, Inc. on file in the Clerk's Office of the Commission.

Nothing more is hereby certified.



*Signed and Sealed at Richmond on this Date:  
October 6, 2005*

*Joel H. Peck*  
Joel H. Peck, Clerk of the Commission