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Division of Corporations

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**FLORIDA PROFIT/NON PROFIT CORPORATION**

**THE HERITAGE CLUB AT BOYNTON BEACH PROPERTY OWNERS'  
ASSOCIATION, INC.**

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**ARTICLES OF INCORPORATION**

**OF**

**THE HERITAGE CLUB AT BOYNTON BEACH PROPERTY OWNERS' ASSOCIATION,  
INC.,**

**a Florida not-for-profit corporation**

**ARTICLE I - NAME**

The name of the corporation is THE HERITAGE CLUB AT BOYNTON BEACH PROPERTY OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

**ARTICLE II - PRINCIPAL OFFICE**

The principal place of business and mailing address of this corporation shall be New Century Companies, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, Florida 33483.

**ARTICLE III - DEFINITIONS**

All terms used herein shall have the same meaning as defined in that certain DECLARATION OF COVENANTS AND RESTRICTIONS FOR THE ESTATES AT HERITAGE CLUB AT BOYNTON BEACH (the "Declaration"), which shall be recorded in the Public Records of Palm Beach County, Florida.

**ARTICLE IV - PURPOSE**

The purposes for which the Association is organized are as follows:

1. To operate as a corporation not-for-profit pursuant to Chapter 720 of the Florida Statutes.
2. To enforce and exercise the duties of the Association as provided in the Declaration.
3. To promote the health, safety, welfare, comfort, and social and economic benefit of the

Members of the Association.

**ARTICLE V - POWERS AND DUTIES**

The Association shall the following powers and duties:

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1. All of the common law and statutory powers of a corporation not-for-profit under the laws of the State of Florida, including those as provided for in Chapters 617 and 720 of the Florida Statutes.

2. To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the Declaration, including, but not limited to, the following:

3. To own, purchase, sell, mortgage, encumber, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property.

4. To make and collect Assessments against Owners to defray the costs, expenses and losses incurred or to be incurred by the Association, and to use the proceeds thereof in the exercise of the Association's powers and duties.

5. To enforce the provisions of the Declaration, these Articles, and the Bylaws.

6. To make, establish and enforce reasonable rules and regulations governing the use of Common Areas, Lots, Homes and other property under the jurisdiction of the Association.

7. To grant and modify easements and to dedicate property owned by the Association to any public or quasi-public agency, authority or utility company for public, utility, drainage and cable television purposes.

8. To borrow money for the purposes of carrying out the powers and duties of the Association.

9. To exercise control over exterior alterations, additions, improvements, or changes in accordance with the terms of the Declaration.

10. To obtain insurance as provided by the Declaration.

11. To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the Association and for proper operation of the properties for which the

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Association is responsible or to contract with others for the performance of such obligations, services and/or duties.

12. To sue and be sued.
13. To contract for cable television services for the Property.
14. To employ management companies, solid waste removal companies, and others to provide services to the Association.
15. To operate and maintain common property, including all surface and storm water management systems.

#### ARTICLE VI - MEMBERS

1. The Members of the Association shall consist of all of the record owners of Lots. Membership shall be established as to each Lot upon the recording of the Declaration. Upon the transfer of ownership of fee title to, or fee interest in, a Lot, whether by conveyance, devise, judicial decree, foreclosure, or otherwise, and upon the recordation amongst the public records in the county in which the Property is located of the deed or other instrument establishing the acquisition and designating the Lot affected thereby, the new Owner designated in such deed or other instrument shall thereupon become a member of the Association, and the Membership of the prior Owner as to the Lot designated shall be terminated, provided, however, that the Association shall not have the responsibility or obligation of recognizing any such change in Membership until it has been delivered a true copy of the applicable deed or other instrument, or is otherwise informed of the transfer of ownership of the Lot. Prior to the recording of the Declaration, the incorporator shall be the sole member of the Association.

2. The share of each member in the funds and assets of the Association, and any Membership in this Association, cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Lot for which that Membership is established.

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3. On all matters upon which the Membership shall be entitled to vote, there shall be only one vote for each Lot. In the event any Lot is owned by more than one person and/or by an entity, the vote for such Lot shall be determined in the manner provided by the Bylaws. Any person or entity owning more than one Lot shall be entitled to one vote for each Lot owned.

4. The Bylaws shall provide for an annual meeting of the Members of the Association and shall make provision for special meetings.

#### ARTICLE VII - TERM OF EXISTENCE

##### CORPORATE EXISTENCE

The existence of the Association shall commence with the filings of these Articles of Incorporation and shall have perpetual existence. If the Association is dissolved, the property consisting of all dedicated property and corresponding infrastructure and the surface water management system will be conveyed to an appropriate agency of local government. If this conveyance of Property is not accepted, then the surface water management system will be dedicated to a similar non-profit corporation.

#### ARTICLE VIII - DIRECTORS

1. The property, business and affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) nor more than five (5) directors (the "Board"). The Bylaws may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the Board shall consist of three (3) directors. Directors are not required to be Members of the Association.

2. All of the duties and powers of the Association existing under the Declaration, these Articles and Bylaws shall be exercised exclusively by the Board, its agents, contractors or employees, subject to approval by the Members only when specifically required.

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3. The Declarant shall have the right to appoint all of the directors until Declarant has conveyed ninety percent (90%) of all of the Lots within the Property. Members other than Declarant shall be entitled to elect a majority of the Members of the Board within three (3) months after the date upon which ninety percent (90%) of all of the Lots have been conveyed. The Declarant shall be entitled to appoint at least one member of the Board as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots within the Property. Declarant may waive its right to elect one or more directors by written notice to the Association, and thereafter such directors shall be elected by the Members. When the Declarant no longer owns any Lot within the Property, all of the directors shall be elected by the Members in the manner provided in the Bylaws.

4. Directors may be removed and vacancies on the Board shall be filled in the manner provided in the Bylaws, provided that any director appointed by the Declarant may only be removed by the Declarant, and any vacancy on the Board shall be appointed by the Declarant if, at the time such vacancy is to be filled, the Declarant is entitled to appoint the directors.

5. The names and addresses of the initial directors, who shall hold office until their successors are appointed or elected, are as follows:

J. P. DiMisa, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.

David Biggs, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.

Robert Mathias, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.

#### ARTICLE IX - OFFICERS

The officers of the Association shall be a president, vice president, secretary, treasurer and such other officers as the Board may from time to time by resolution create. The officers shall serve at the pleasure of the Board, and the Bylaws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board are as follows:

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Fax Audit No. H06000130875\_3**President:** Robert Mathias, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.**Vice President:** J. P. DiMisa, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.**Secretary:** David Biggs, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.**Treasurer:** J. P. DiMisa, 909 SE 5<sup>th</sup> Avenue, Suite 200, Delray Beach, FL 33483.**ARTICLE X- INDEMNIFICATION**

1. The Association shall indemnify any person who has or is a party, or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association by reason of the fact that he is or was a director, employee, officer or agent of the Association), against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with the action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; except, that to indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the Association unless and to the extent that the court in which the action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to reimbursement for such expenses which the court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

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2. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraph 1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

3. Any indemnification under Paragraph 1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper under the circumstances because he has met the applicable standard of conduct set forth in Paragraph 1 above. Such determination shall be made a) by the Board by a majority vote of a quorum consisting of directors who were disinterested in such action, suit or proceeding, or b) if such quorum is not obtainable or, even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or c) by approval of the Members by a majority vote.

4. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized herein.

5. The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of Members or otherwise and as to action taken in an official capacity while holding office, shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, successors and administrators of such a person.

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6. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

#### ARTICLE XI - BYLAWS

The first Bylaws shall be adopted by the Board and may be altered, amended or rescinded by the Declarant, the Directors and/or Members to the manner provided by the Bylaws.

#### ARTICLE XII - AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

1. A majority of the Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be the annual or a special meeting.

2. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote thereon within the time and in the manner provided in the Bylaws for the giving of notice of a meeting of the Members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

3. As such time as the Declarant no longer has the right to appoint the entire Board of the Association, amendment of these Articles requires the approval of at least 66 2/3% of the voting Members present, in person or in proxy, at a duly noticed meeting at which a quorum has been attained.

4. Any number of amendments may be submitted to the Members and voted upon by them at any one meeting.

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5. If all of the directors and all of the Members eligible to vote sign a written statement manifesting their intention that an amendment to these Articles be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.

6. No amendment shall make any changes in the qualifications for Membership nor in the voting rights of Members without the approval by all of the Members of the Association. No amendment shall be made that is in conflict with the Declaration. Prior to the closing of the sale and conveyance by Declarant of all Lots, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, including, but not limited to, any right of the Declarant to appoint directors pursuant to Article VI, unless the Declarant shall join in the execution of the amendment.

7. No amendment to these Articles shall be made which discriminates against any Owner or affects less than all of the Owners within the Property, without the written approval of all of the Owners so discriminated against or affected.

8. Notwithstanding anything herein to the contrary, so long as the Declarant is entitled to appoint a majority of the directors of the Association the Declarant shall, subject to the provisions of Paragraph 6 and 7 of this Article X, have the right to unilaterally amend these Articles without the joinder or approval of the Board, any member, or any other party.

9. Upon the approval of an amendment to these Articles, the articles of amendment shall be executed and delivered to the Department of State as provided by law, and a copy certified by the Department of State shall be recorded in the public records of the county in which the Property is located.

#### ARTICLE XIII - 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

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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, 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 XIV**  
**INCORPORATOR(S)**

The name and address of the Incorporator to these Articles is as follows:

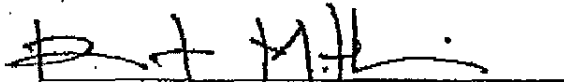
Robert Mathias

909 SE 5<sup>th</sup> Avenue, Suite 200  
Delray Beach, Florida 33483

**ARTICLE XV**  
**REGISTERED AGENT**

The name and address of the registered agent of the Association is New Century Boynton One Development, LLLP, a Florida limited liability limited partnership, 909 SE 5<sup>th</sup> Avenue, Delray Beach, Florida 33483.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 10 day of MAY, 2006.

  
ROBERT MATHIAS  
Its: Incorporator

**CERTIFICATE DESIGNATING PLACE OF BUSINESS OR  
DOMICILE FOR SERVICE OF PROCESS WITHIN THIS STATE, NAMING  
AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with the laws of Florida, the following is submitted:

That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing Articles of Incorporation, the corporation named in the said Articles has named New Century Boynton One Development, LLLP a Florida limited liability limited partnership, located at 909 SE 5<sup>th</sup> Avenue, Delray Beach, Florida, 33483, as its statutory registered agent.

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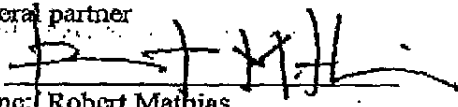
Having been named the statutory registered agent of said corporation, at the place designated in this certificate, we hereby accept the same and agree to act in this capacity, and further agree to comply with the provisions of Florida law relative to the proper and complete performance of our duties.

Dated this 10 day of MAY, 2006.

REGISTERED AGENT:

NEW CENTURY BOYNTON ONE  
DEVELOPMENT, LLLP, a Florida limited liability  
limited partnership

By: NEW CENTURY BOYNTON ONE, LLC,  
a Florida limited liability company, its  
general partner

By:   
Name: Robert Mathias  
Title: Manager

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