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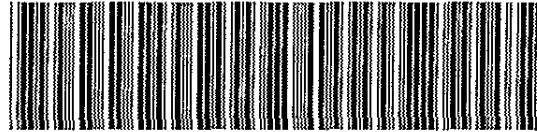
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October 13, 2006

Department of State  
Division of Corporations  
P. O. Box 6327  
Tallahassee, Florida 32301

**RE: WHISPER LAKE SOUTH OWNERS ASSOCIATION, INC.**

Gentlemen:

Enclosed for filing are the Articles of Incorporation for the above-referenced corporation, along with a check in the amount of \$78.75 for the filing fee. After filing, please forward a certified copy to me at the above Winter Haven address.

If you have any questions or comments, please do not hesitate to give me a call.

Best regards,



KERRY M. WILSON

:pk  
Enclosures

J. HARDIN PETERSON, SR.  
(1894-1978)

MICHAEL W. CREWS  
(1941-1991)

M. DAVID ALEXANDER, III  
PHILIP O. ALLEN  
KEVIN A. ASHLEY  
JACK P. BRANDON  
JOSHUA K. BROWN  
PHILIP H. BUSH  
DEBRA L. CLINE

CLINTON A. CURTIS  
JACOB C. DYKHOORN  
MICHAEL T. GALLAHER  
JILL A. GARRETT  
JOSEPH A. GEARY  
JOHN R. GRIFFITH  
DAVID E. GRISHAM

JOHN D. HOPPE  
DENNIS P. JOHNSON  
TIMOTHY E. KILEY  
KEVIN C. KNOWLTON  
DOUGLAS A. LOCKWOOD, III  
WILLIAM M. MIDYETTE, III  
CORNEAL B. MYERS

E. BLAKE PAUL  
ROBERT E. PUTERBAUGH  
THOMAS B. PUTNAM, JR.  
DEBORAH A. RUSTER  
STEPHEN R. SENN  
ANDREA TEVES SMITH  
KEITH H. WADSWORTH

THEODORE W. WEEKS, IV  
KERRY M. WILSON  
THOMAS E. BAYNES, JR.  
OF COUNSEL



FILED

**ARTICLES OF INCORPORATION  
OF  
WHISPER LAKE SOUTH OWNERS ASSOCIATION, INC.**

06 OCT 17 PM 3:44

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

In compliance with the requirements of Florida Statutes, Chapter 617, the undersigned incorporator has executed, adopted and caused to be delivered for filing these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

**ARTICLE I**

NAME OF CORPORATION

The name of the corporation is WHISPER LAKE SOUTH OWNERS ASSOCIATION, INC. (hereinafter called the "Association").

**ARTICLE II**

PRINCIPAL OFFICE OF THE ASSOCIATION

The principal place of business and the mailing address of the Association is located at 407 Avenue K, S.E., Winter Haven, Florida, 33880.

**ARTICLE III**

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the registered office of the Association is 407 Avenue K, S.E., Winter Haven, Florida, and the name of the initial registered agent to accept service of process within the State of Florida at that address is Daniel W. Welch.

**ARTICLE IV**

DEFINITIONS

Unless otherwise provided herein to the contrary, all terms used in these Articles shall have the same definitions and meanings as those set forth in that certain Declaration of Covenants, Conditions, Restrictions and Easements for WHISPER LAKE SOUTH recorded or to be recorded in the Public Records of Highlands County, Florida, as it may from time to time be amended (hereinafter called the "Declaration").

## ARTICLE V

### PURPOSE AND POWERS OF THE ASSOCIATION

The Association does not contemplate pecuniary gain or profit to the Members thereof. The Association shall not pay dividends and no part of any income of the Association shall be distributed to its Members, directors or officers. The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Florida and as specifically set forth in Section 617.0302, Florida Statutes, subject only to such limitations upon the exercise of such powers as are expressly set forth in these Articles, the Bylaws, or the Declaration. The Association shall have the power and duty to do any and all lawful things which may be authorized, assigned, required or permitted to be done by the Declaration, these Articles or the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, operation and improvement of the Property and Common Property. The Association shall operate, maintain and manage the Surface Water Management System in a manner consistent with the permit therefor issued by the Southwest Florida Water Management District ("SWFWMD") and in accordance with applicable SWFWMD rules. The Association shall levy and collect adequate assessments against Members of the Association for the costs of operation, maintenance and management of the Surface Water Management System.

## ARTICLE VI

### MEMBERSHIP

Section 1. Members. Every person or entity who is a record Owner of a fee interest in any Lot of the Property shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Article, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. The Association membership of each Owner shall be appurtenant to and may not be separated from the Lot giving rise to such membership and shall not be transferred except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof upon notice as set forth in this Declaration.

Section 2. Classes of Voting Members. The Association shall have two (2) classes of voting memberships, as follows:

Class A. Class A Members shall be all the Owners from time to time of the Lots.

Class B. The Class B Member shall be the Declarant. The Declarant may terminate the Class B Membership at any time. The Class B Membership shall terminate on the earlier of (a) issuance of the first certificate of occupancy for the last of the Lots to be improved with vertical improvements, or (b) December 31, 2016.

Section 3. Voting Rights. While there is a Class B Member, there shall be a total of two hundred votes that may be cast on any matter on which Members of the Association may vote. The Class B Member shall hold and be entitled to cast one hundred (100) votes. Class A Members shall hold and be entitled to cast one hundred (100) votes, in the aggregate. Votes shall be allocated among the Class A Members in the same percentage as the Annual Assessment is allocated to and levied against the Parcels under the terms of the Declaration. By way of example, if thirty percent (30%) of the Annual Assessment is allocated and levied against "Parcel X," the Owner of "Parcel X" shall hold and be entitled to cast thirty (30) votes on any matter on which Members of the Association may vote.

Section 4. Multiple Owners. If joint or multiple Owners are unable to agree among themselves as to how their vote is to be cast, and to notify the Association as provided in the Declaration, none of the votes for that Lot shall be counted. If any Owner casts votes on behalf of a Lot, it shall be conclusively presumed that Owner was acting with the authority and consent of all other Owners of that Lot.

## ARTICLE VII

### BOARD OF DIRECTORS

The affairs of this Association shall be managed and administered by a Board of Directors consisting of three (3) or five (5) members. Initially, the Board shall consist of three (3) members, with the number in subsequent years to be determined by the members of the Board; provided that there shall always be an odd number of directorships created. The number of directors may be changed by amendment to the Bylaws of the Association. The names and addresses of persons who are to act in the capacity of director until appointment or election of their successors are:

| <u>NAME</u>     | <u>ADDRESS</u>  |
|-----------------|---|
| Daniel W. Welch | 407 Avenue K, S.E.<br>Winter Haven, FL 33880              |
| Deane R. Briggs | 160 E. Lake Howard Dr.<br>Winter Haven, FL 33881          |
| David M. Misch  | 250 Avenue K, S.W.<br>Suite 200<br>Winter Haven, FL 33880 |

The assets interests, business and affairs of the Association shall be managed by the Board of Directors of the Association, who shall act in accordance with the votes of a majority of the members of the Board. Notwithstanding anything herein to the contrary, so long as the Class B Membership exists, the Class B Member shall have the right from time to time to appoint, remove and reappoint the members of the Board of Directors of the Association upon written notice to the Association of any such appointment, removal and reappointment. Upon termination of the Class B Membership, the members of the Board shall be elected by the vote of a majority of the cumulative votes of the Class A Members of the Association, from time to time, in accordance with the procedures and for the terms established in the Articles of Incorporation and Bylaws of the Association.

## **ARTICLE VIII**

### **OFFICERS**

The day-to-day affairs of the Association shall be administered, subject to the direction and authority of the Board of Directors, by the officers of the Association, which may include a President, Vice President, Secretary and Treasurer, and such other officers as permitted by the Bylaws. The officers shall be appointed by the Board of Directors and they shall serve at the pleasure of the Board of Directors. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

|                 | <u>NAME</u>     | <u>ADDRESS</u>  |
|-----------------|-----------------|---|
| President:      | Daniel W. Welch | 407 Avenue K, S.E.<br>Winter Haven, FL 33880              |
| Vice President: | Deane R. Briggs | 160 E. Lake Howard Dr.<br>Winter Haven, FL 33881          |
| Secretary:      | David M. Misch  | 250 Avenue K, S.W.<br>Suite 200<br>Winter Haven, FL 33880 |
| Treasurer:      | Daniel W. Welch | 407 Avenue K, S.E.<br>Winter Haven, FL 33880              |

## **ARTICLE IX**

### **DURATION**

The Association shall commence to exist upon the filing of these Articles with the Florida Department of State, and the Association shall thereafter exist in perpetuity. If the Association is dissolved, the Surface Water Management System, property

containing the Surface Water Management System and water management portions of common areas shall be conveyed to an agency of local government, or other entity or entities, determined to be acceptable by SWFWMD.

## **ARTICLE X**

### **AMENDMENTS**

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

Section 1. Notice. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

Section 2. Adoption. Amendments shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes. Subject to the terms of Article XIV, any amendment in these Articles of Incorporation shall require the assent of two-thirds (2/3) of the votes of the entire membership without regard to class.

Section 3. Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law.

Section 4. Limitations. No amendment shall be made that is in conflict with the Declaration.

## **ARTICLE XI**

### **BYLAWS**

The Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the Bylaws.

## **ARTICLE XII**

### **INDEMNIFICATION OF OFFICERS AND DIRECTORS**

Section 1. The Association shall defend, indemnify and hold harmless any person who is made a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer, committee member, employee or agent of the Association:

- (a) From and against expenses (including reasonable attorneys' fees for pretrial, trial or appellate proceedings), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with an action, suit or proceeding (other than one by or in the right of the Association), if he acted in good faith, and, with respect to any criminal action or proceedings, he had no reasonable cause to believe his conduct was unlawful; and
- (b) From and against expenses (including reasonable attorneys' fees for pretrial, trial or appellate proceedings) actually and reasonably incurred by him in connection with the defense or settlement of an action or suit by or in the right of the Association, if he acted in good faith.

Section 2. 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 of itself, create a presumption that the person did not act in good faith, or, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his conduct was unlawful.

Section 3. Notwithstanding any other provision hereof to the contrary, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misconduct in the performance of his duty to the Association.

Section 4. Any indemnification under Section 1 (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 or officer, committee member, employee or agent is proper in the circumstance because he has met the applicable standard of conduct set forth in Section 1. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or even if obtainable and a quorum of disinterested Directors so directs, by a majority vote of Members of the Association.

Section 5. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association from time to time as incurred rather than only after the final disposition of such action, suit or proceeding. Payment of such expenses shall be authorized by the Board of Directors in each specific case only after receipt by the Association of an undertaking by or on behalf of the director or officer to repay such amounts if it shall later develop that he is not entitled to be indemnified by the Association.

Section 6. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which the Association's directors, officers, committee members, employees or agents may be entitled under the Association's bylaws,



agreement, vote of Members or disinterested directors, or otherwise, both as to actions in their official capabilities and as to action in another capacity while holding such offices or positions, and shall continue as to a person who has ceased to be a director, officers, committee member, agent or employee and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 7. Notwithstanding the foregoing provisions, indemnification provided under this Article shall not include indemnification for any action of a director, officer, committee member, agent or employee of the Association for which indemnification is deemed to be against public policy. In the event that indemnification provided under this Article is deemed to be against public policy, such an event shall not invalidate or affect any other right or indemnification herein provided.

Section 8. The Association shall have the power, but shall not be obligated, to purchase and maintain indemnification insurance to provide coverage for any liability asserted against any director, officer, committee member, agent or employee of the Association in any of his capacities as described in Section 1, whether or not the Association would have the power to indemnify him or her under this Article.

Section 9. Any person requesting indemnification shall first look to any insurance maintained by the Association for indemnification against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (as described above). The Association shall be obligated to indemnify such person (if entitled to indemnification by the Association) only to the extent such insurance does not indemnify such person. In the event that any expenses, judgments, fines or amounts paid in settlement are paid pursuant to insurance maintained by such Association, the Association shall have no obligation to reimburse the insurance company.

### **ARTICLE XIII**

#### **INCONSISTENCY**

In the event of any inconsistency between the terms and provisions contained in the Declaration and those contained in these Articles of Incorporation, the terms and provisions of the Declaration shall prevail.

### **ARTICLE XIV**

#### **REQUIRED APPROVALS**

Notwithstanding anything in these Articles to the contrary, as long as there exists a Class "B" membership, in the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water Management System Facilities must be transferred to and accepted by an entity or entities which would comply with Section 40C-42.027, F.A.C., and be approved by the SWFWMD prior to such termination, dissolution or liquidation.

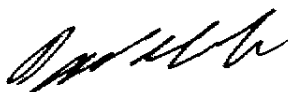
**ARTICLE XV**

**INCORPORATOR**

The name and street address of the sole incorporator to these Articles of Incorporation is as follows

Daniel W. Welch  
407 Avenue K, S.E.  
Winter Haven, FL 33880


**IN WITNESS WHEREOF**, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole incorporator of this Association, has executed these Articles of Incorporation on October 13, 2006.




\_\_\_\_\_  
Daniel W. Welch  
Incorporator

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing Articles of Incorporation were acknowledged before me on October 13, 2006, by Daniel W. Welch, who (X) is personally known to me or ( ) has produced \_\_\_\_\_ as identification.

  
Kerry M. Wilson  
Commission # DD475956  
Expires October 11, 2009  
Bonded Troy P&M - Insurance, Inc. 800-365-7019

  
Kerry M. Wilson  
Commission # DD475956  
Expires October 11, 2009  
Bonded Troy P&M - Insurance, Inc. 800-365-7019

  
\_\_\_\_\_  
NOTARY PUBLIC  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**CERTIFICATE DESIGNATING REGISTERED AGENT FOR  
SERVICE OR PROCESS**

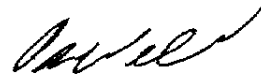
Pursuant to Chapters 48 and 617, Florida Statutes, the following is submitted in compliance with said Acts.

WHISPER LAKE SOUTH OWNERS ASSOCIATION, INC., desiring to organize as a corporation under the laws of the State of Florida, with its registered office at 407 Avenue K, S.E., Winter Haven, Florida, 33880, has named Daniel W. Welch, located at the above-registered office, as its Registered Agent to accept service or process within this State.

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above-stated corporation at the place designated in this Certificate, I hereby accept appointment to act in this capacity and agree to comply with the provisions of said Acts relative to keeping office said office.

Registered Agent:



Name: Daniel W. Welch

Dated: October 13, 2006

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